

By Mr. HAMILTON of Iowa: Petition of citizens of Blakesburg, Iowa, favoring legislation to provide pension for the United States Military Telegraph Corps of the United States Army during civil war—to the Committee on Invalid Pensions.

By Mr. HAMMOND: Petition of M. Leatherman and others, against S. 3940 (Sunday observance in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. HARDWICK: Papers to accompany bills for relief of sureties of E. J. O'Connor and J. B. Schweers—to the Committee on Claims.

By Mr. HAYES: Petition of C. H. Parker, for legislation to effectively exclude inassimilable Asiatics—to the Committee on Immigration and Naturalization.

Also, petition of Chamber of Commerce of San Francisco, for legislation appropriating \$500,000 for a new marine hospital at San Francisco—to the Committee on Public Buildings and Grounds.

By Mr. HEPBURN: Petition of citizens of Clarinda, Page County, Iowa, against Senate bill 3940, entitled "An act for proper observance of Sunday as a day of rest in the District of Columbia"—to the Committee on the District of Columbia.

By Mr. HOWARD: Papers to accompany bill for the relief of Elizabeth C. Galloway, deceased—to the Committee on War Claims.

By Mr. HOWELL of New Jersey: Petition of Asiatic Exclusion League, for more stringent laws for exclusion of Asiatics—to the Committee on Immigration and Naturalization.

By Mr. HULL of Iowa: Petition against enactment of S. 3940—to the Committee on the District of Columbia.

By Mr. LANDIS: Petition of citizens of Onaway, Mich., against Johnston bill (S. 3940), providing for religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. MADDEN: Petition of citizens of Chicago, Ill., favoring the pensioning of members of the Military Telegraphers' Corps in civil war—to the Committee on Invalid Pensions.

By Mr. MANN: Petition of Commercial Club of Chicago, favoring increase of salaries of federal judges—to the Committee on the Judiciary.

Also, petition of Veteran Army of Philippines, for legislation making August 13 a legal holiday, to be known as "Occupation Day"—to the Committee on the Judiciary.

By Mr. MARSHALL: Petition of citizens of North Dakota, against any parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. MAYNARD: Paper to accompany bill for relief of heirs of Samuel Tucker—to the Committee on War Claims.

By Mr. NICHOLLS: Petitions of Sanker & Williams, J. A. Eberts & Co., and J. O. Ackerman, of Scranton, Pa., for removal of duty on raw and refined sugars—to the Committee on Ways and Means.

By Mr. NYE: Petition of citizens of Minneapolis, Minn., against enactment of the Johnston Sunday bill (S. 3940)—to the Committee on the District of Columbia.

By Mr. PATTERSON: Paper to accompany bill for relief of heirs of William Carley—to the Committee on War Claims.

By Mr. RYAN: Petition of Plimpton, Cowan & Co., of Buffalo, N. Y., for the removal of duty from raw and refined sugars—to the Committee on Ways and Means.

By Mr. SHERMAN: Petition of A. Ethridge Company, of Rome, N. Y., favoring removal of duty from raw and refined sugars—to the Committee on Ways and Means.

By Mr. STURGISS: Petition of Elkins Board of Trade, favoring Senate bill 4825, providing for Appalachian and White Mountain National Forest Reserves—to the Committee on Agriculture.

By Mr. VREELAND: Petition of residents of Delevan, N. Y., against Senate bill 3940, entitled "An act for proper observance of Sunday as a day of rest in the District of Columbia"—to the Committee on the District of Columbia.

Also, petition of residents of Jamestown, N. Y., favoring the enactment of the Bacon original-package bill, the Tirrell bill, etc.—to the Committee on the Judiciary.

By Mr. WASHBURN: Paper to accompany bill for relief of Charles W. Clark—to the Committee on Invalid Pensions.

By Mr. WHEELER: Petition of citizens of Pennsylvania, against S. 3940 (Sunday observance in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. WILSON of Pennsylvania: Petition of Rear-Admiral H. F. Pickering Naval Garrison, No. 4, of Erie, Pa., favoring retirement of petty officers and enlisted men of the navy after twenty-five years of actual service—to the Committee on Naval Affairs.

Also, petition of John A. German and 24 others, of Williamsport, Pa., against S. 3940 (religious legislation in the District of Columbia)—to the Committee on the District of Columbia.

SENATE.

MONDAY, December 14, 1908.

The Senate met at 12 o'clock m.

Prayer by the Chaplain, Rev. Edward E. Hale.

Mr. BENJAMIN R. TILLMAN, a Senator from the State of South Carolina, appeared in his seat to-day.

The Secretary proceeded to read the Journal of the proceedings of Thursday last, when, on request of Mr. KEAN, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

ELECTORAL VOTES.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of State, transmitting certified copies of the final ascertainment of electors for President and Vice-President for the States of North Carolina, Vermont, Illinois, West Virginia, South Dakota, Arkansas, Delaware, Georgia, Ohio, Virginia, New Hampshire, Missouri, and Maryland, which, with the accompanying papers, was ordered to be filed.

POLICEMEN AND FIREMEN'S RELIEF FUND.

The VICE-PRESIDENT laid before the Senate a communication from the Commissioners of the District of Columbia, transmitting, in response to a resolution of March 27, 1908, a complete report upon the policemen and firemen's relief fund, together with a draft of proposed legislation for the reorganization of the entire system for pension and relief for the police and fire departments of the District of Columbia, which, with the accompanying paper, was referred to the Committee on the District of Columbia and ordered to be printed.

CLAIMS OF POSTMASTERS.

The VICE-PRESIDENT laid before the Senate a communication from the Postmaster-General, stating that, pursuant to law, he had transmitted to the Speaker of the House of Representatives a report of the action taken during the year ended June 30, 1908, upon claims of postmasters for credit or reimbursement, or on account of losses resulting from burglary, fire, or other unavoidable casualties, etc., which was referred to the Committee on Post-Offices and Post-Roads and ordered to be printed.

CADMUS B. CRABILL.

The VICE-PRESIDENT laid before the Senate a communication from the Postmaster-General, stating that he had transmitted to the Speaker of the House of Representatives the claim of Cadmus B. Crabill, postmaster at South Bend, Ind., for the credit of \$18,653.50 on account of postage stamps lost by burglary November 15, 1908, which was referred to the Committee on Post-Offices and Post-Roads and ordered to be printed.

CHAMBERLAIN (S. DAK.) INDIAN SCHOOL.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting a supplemental report as to the disposition of nonreservation Indian schools, particularly with reference to the Indian school at Chamberlain, S. Dak., etc., which, with the accompanying paper, was referred to the Committee on Indian Affairs and ordered to be printed.

REPORT OF BOARD OF ORDNANCE AND FORTIFICATION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting the eighteenth annual report of the Board of Ordnance and Fortification for the fiscal year ended June 30, 1908, which was referred to the Committee on Military Affairs and ordered to be printed.

DANIEL K. PONDER V. UNITED STATES.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact found by the court in the cause of Daniel K. Ponder v. United States, which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. Browning, its Chief Clerk, announced that the House had passed the bill (S. 5473) to authorize the Secretary of the Navy in certain cases to mitigate or remit the loss of rights of citizenship imposed by law upon deserters from the naval service, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the joint resolution (S. R. 78) establishing the boundary line between the States of Colorado and Oklahoma and the Territory of New Mexico.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 6145. An act to refund to the Territory of Hawaii the amount expended in maintaining light-house service on its coast from the time of the organization of the Territory until said light-house service was taken over by the Federal Government;

H. R. 21051. An act amending the penal laws of the United States;

H. R. 21736. An act to provide for holding terms of United States courts at Clarksdale, Miss.; and

H. R. 23464. An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1910, and for other purposes.

The message further announced that the House had passed a concurrent resolution providing that when the two Houses adjourn on Saturday, December 19, they stand adjourned until 12 o'clock meridian Monday, January 4, 1909, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented resolutions of the National Rivers and Harbors Congress, favoring the enactment of legislation to authorize the issuance of bonds to the amount of \$500,000,000, the proceeds to be used exclusively in such river and harbor works as shall be authorized by Congress, which were referred to the Committee on Commerce.

Mr. FRYE. I think it may be well to have the resolutions printed in the RECORD, and I make that request.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

The National Rivers and Harbors Congress approves the plan urged by the President of the United States for the creation of a commission or department of the National Government that shall adopt a general scheme for the conservation of all the natural resources of the country.

But this Congress realizes that of necessity it will be some time before such a plan can be legislatively adopted and the commission or department formulate its detailed policy, and believing that the need of river and harbor improvement, that we may have adequate water transportation, is imperative, and realizing that there are now a number of river and harbor projects sufficiently matured and the need for which is so pressing as to warrant the Congress of the United States in immediately bringing about their adoption and completion, it is the sense of the National Rivers and Harbors Congress that—

First. The Congress of the United States should at its present session authorize the issuance of bonds of the Government to an amount of \$500,000,000, to be sold from time to time in such quantities as may be necessary, the proceeds of same to be used in the payment exclusively of such river and harbor work as shall be authorized by Congress, the provisions for the issuance of said bonds to be similar to those authorizing the bonds for the construction of the Panama Canal.

Second. We further urge that the Congress at this session authorize the completion of such river and harbor projects heretofore entered upon as are of such a character as to surely fit into and carry into effective use any larger, comprehensive, and connected waterway system that may be subsequently adopted.

Third. That Congress also adopt such new projects as are of a like character as those just mentioned.

Fourth. We further recommend the appointment by the president of this organization of a committee of five, of which he shall be a member, to prepare a bill for introduction in the Congress of the United States for providing for the bond issue above set forth, and the creation of a statutory commission to study the waterways of this and foreign countries, and suggest to Congress in a full and detailed report a comprehensive plan and policy for improving our waterways.

Fifth. We further urge that the Corps of Engineers, United States Army, should be at least double its present size, utilizing in the permanent organization as far as practicable the present United States assistant civil engineers, and that the Corps of Engineers be given authority to formulate and propose to the Congress plans and projects for river and harbor improvement.

Respectfully submitted.

JOS. E. RANDELL, *Chairman.*

J. F. ELLISON, *Secretary.*

Mr. BROWN presented a petition of the Republican platform convention of the State of Nebraska, praying that a further increase of appropriation be made in aid of the Reclamation Service of the United States, which was referred to the Committee on Irrigation.

Mr. BURKETT presented a petition of members of the Bar Association of Omaha, Nebr., praying for the enactment of legislation to increase the salaries of the circuit and district court judges, which was referred to the Committee on the Judiciary.

Mr. OVERMAN presented a petition of the Synod of the Presbyterian Church of Newbern, S. C., praying for the enactment of legislation to prohibit Sunday banking in post-offices in the handling of money orders and registered letters, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. CULLOM presented a petition of the Chamber of Commerce of Quincy, Ill., praying for the enactment of legislation to create a nonpartisan tariff commission, which was referred to the Committee on Finance.

Mr. GALLINGER presented a petition of Merrimac Lodge, No. 266, Brotherhood of Railroad Trainmen, of Nashua, N. H.,

praying for the enactment of legislation providing for an application of the illiteracy test for immigrants and remonstrating against any modification of the present immigration law, which was referred to the Committee on Immigration.

He also presented a petition of sundry citizens of Washington, D. C., praying for the enactment of legislation providing for a high-pressure water system for the District of Columbia, which was referred to the Committee on Appropriations.

He also presented the petition of Edward Tarring, of the city of Washington, praying for the enactment of legislation to regulate the sale of intoxicating liquors in the District of Columbia, which was referred to the Committee on the District of Columbia.

He also presented resolutions adopted by the board of directors of the Chamber of Commerce and resolutions adopted by the Board of Trade of the city of Washington, favoring the recommendations of the Commissioners of the District of Columbia that in making appropriations for the District of Columbia Congress shall distinguish between the items for the extraordinary projects of improvements and the items of current expenditures, which were referred to the Committee on Appropriations.

Mr. PLATT presented a petition of the West Chester Woman's Club, of Mount Vernon, N. Y., praying for the enactment of legislation to establish a national children's bureau to investigate and report upon all matters pertaining to the welfare of children, which was referred to the Committee on Education and Labor.

He also presented a petition of members of the Bar Association of Erie County, of Buffalo, N. Y., praying for the enactment of legislation providing for an increase in the salaries of circuit and district court judges, which was referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of the State of New York, praying for the enactment of legislation granting pensions to the surviving members of the United States Military Telegraph Corps who served in the civil war, which was referred to the Committee on Pensions.

Mr. GAMBLE presented a petition of the South Dakota Synod of the Presbyterian Church of the United States, praying for the enactment of legislation to prohibit Sunday banking in post-offices in the handling of money orders and registered letters, which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of members of the Lawrence County Bar Association, of South Dakota, praying for the enactment of legislation providing for an increase in the salaries of circuit and district court judges, which was referred to the Committee on the Judiciary.

He also presented a petition of the South Dakota Synod of the Presbyterian Church of the United States, praying for the enactment of legislation requiring individuals and corporations engaged in interstate commerce to grant certain privileges to their employees, which was referred to the Committee on Interstate Commerce.

Mr. SCOTT presented a petition of the Board of Trade of Elkins, W. Va., praying for the enactment of legislation to establish a national forest reserve in the southern Appalachian and White mountains, which was ordered to lie on the table.

Mr. ANKENY presented a petition of sundry citizens of Everett, Wash., praying for the enactment of a Sunday rest law for the District of Columbia, which was referred to the Committee on the District of Columbia.

Mr. NELSON presented sundry papers to accompany the bill (S. 7413) granting an increase of pension to George W. Hawkins, which were referred to the Committee on Pensions.

Mr. STEPHENSON presented a petition of the Medical Association of Horicon, Wis., praying for the enactment of legislation to create a national department of public health, which was referred to the Committee on Public Health and National Quarantine.

He also presented a petition of the Military Order of the Loyal Legion of the United States, of Milwaukee, Wis., praying for the enactment of legislation to create a volunteer retired list in the War and Navy departments for the surviving officers of the civil war, which was referred to the Committee on Military Affairs.

Mr. CURTIS presented a petition of sundry volunteer officers of the civil war, inmates of the National Military Home, Kansas, and a petition of sundry volunteer officers of the civil war, of Russell, Kans., praying for the enactment of legislation to create a volunteer retired list in the War and Navy departments for the surviving officers of the civil war, which were referred to the Committee on Military Affairs.

He also presented petitions of sundry citizens of Garden City, Galena, and Wichita, all in the State of Kansas, praying for the enactment of legislation granting pensions to the surviving members of the United States Military Telegraph Corps who served in the civil war, which were referred to the Committee on Pensions.

Mr. KEAN presented a petition of sundry citizens of the State of New Jersey, praying for the enactment of legislation granting pensions to the surviving members of the United States Military Telegraph Corps who served in the civil war, which was referred to the Committee on Pensions.

He also presented a petition of sundry citizens of Orange, N. J., praying for the adoption of an amendment to the Constitution granting the right of suffrage to women, which was referred to the Select Committee on Woman Suffrage.

Mr. WARREN presented a petition of sundry citizens of Liberty, Wyo., praying for the enactment of legislation extending the time from three to five years for making final applications on mineral claims on the Wind River Indian Reservation in that State, which was referred to the Committee on Indian Affairs.

Mr. LONG presented a petition of the Medical Society of Rice County, Kans., praying for the enactment of legislation to create a national department of public health, which was referred to the Committee on Public Health and National Quarantine.

He also presented sundry affidavits to accompany the bill (S. 7491) granting an increase of pension to Henry C. Walker, which were referred to the Committee on Pensions.

FUNERAL OF THE LATE SENATOR WILLIAM B. ALLISON.

Mr. KEAN, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. DOLLIVER on the 10th instant, reported it without amendment, and it was considered by unanimous consent, and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent funds of the Senate the actual and necessary expenses incurred by the committee appointed by the Vice-President in arranging for and attending the funeral of the late Senator William B. Allison, from the State of Iowa, upon vouchers to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

EDITH E. McDOWELL.

Mr. KEAN, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. GAMBLE on the 10th instant, reported it without amendment, and it was considered by unanimous consent, and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay to Edith E. McDowell, widow of Robert E. McDowell, late clerk of the Committee on Transportation Routes to the Seaboard, a sum equal to six months' salary at the rate he was receiving by law at the time of his demise, said sum to be considered as including funeral expenses and all other allowances.

EMPLOYMENT OF STENOGRAPHER.

Mr. KEAN, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. CURTIS on the 9th instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Committee on Indian Depredations be, and the same is hereby, authorized to employ a stenographer, to be paid from the contingent fund of the Senate, at the rate of \$1,200 per annum, said employment to continue during the Sixtieth Congress.

BILLS INTRODUCED.

Mr. GALLINGER introduced a bill (S. 7711) to establish and disburse a public-school teachers' retirement fund in the District of Columbia, which was read twice by its title and referred to the Committee on the District of Columbia.

Mr. GALLINGER. I ask unanimous consent that 200 additional copies of the bill be printed for the use of the Committee on the District of Columbia.

The VICE-PRESIDENT. Without objection, it is so ordered.

Mr. GALLINGER. I present some papers relating to this subject which are of general interest. I ask that they be printed as a Senate document, and that 200 additional copies of the document be printed for the use of the Committee on the District of Columbia.

The VICE-PRESIDENT. Without objection, it is so ordered.

Mr. FRYE introduced a bill (S. 7712) granting a pension to Mary Miller, which was read twice by its title and, with the accompanying paper, referred to the Committee on Pensions.

Mr. McCUMBER introduced the following bills, which were severally read twice by their titles and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 7713) granting an increase of pension to William B. Hibbs;

A bill (S. 7714) granting an increase of pension to John C. Boren; and

A bill (S. 7715) granting an increase of pension to Edwin B. Brewster.

He also introduced a bill (S. 7716) for the relief of Freeman, Richardson & Co., which was read twice by its title and referred to the Committee on Claims.

Mr. FORAKER introduced the following bills, which were severally read twice by their titles and referred to the Committee on Territories:

A bill (S. 7717) to enable the people of Arizona to form a constitution and state government and to be admitted into the Union on an equal footing with the original States; and

A bill (S. 7718) to enable the people of New Mexico to form a constitution and state government and be admitted into the Union on an equal footing with the original States.

He also introduced a bill (S. 7719) granting an increase of pension to Anthony Barleon, which was read twice by its title and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 7720) for the relief of the heirs of Matthew H. Fulton, which was read twice by its title and referred to the Committee on Claims.

Mr. CLAPP introduced a bill (S. 7721) for payment to Robert B. Whitacre and Frederick T. Hildred the sum of \$944.97 for blasting powder used by the United States Government to complete the Belle Fourche irrigation project, which was read twice by its title and referred to the Committee on Claims.

He also introduced the following bills, which were severally read twice by their titles and referred to the Committee on Pensions:

A bill (S. 7722) granting an increase of pension to E. E. Chase;

A bill (S. 7723) granting a pension to Harriet A. Kelliher (with the accompanying papers); and

A bill (S. 7724) granting a pension to Christian Rauch (with the accompanying papers).

Mr. CURTIS introduced the following bills, which were severally read twice by their titles and referred to the Committee on Pensions:

A bill (S. 7725) granting an increase of pension to Leander Stillwell;

A bill (S. 7726) granting an increase of pension to George E. Ray; and

A bill (S. 7727) granting an increase of pension to W. H. Runkle.

Mr. CURTIS introduced the following bills, which were severally read twice by their titles and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 7728) granting an increase of pension to Benjamin F. Simpson;

A bill (S. 7729) granting an increase of pension to Isabella B. Hinton;

A bill (S. 7730) granting an increase of pension to Henry C. Luess; and

A bill (S. 7731) granting an increase of pension to John W. Spencer.

He also introduced a bill (S. 7732) to increase the pensions of those who have lost limbs in the military or naval service of the United States during the war of the rebellion, which was read twice by its title and referred to the Committee on Pensions.

He also introduced a bill (S. 7733) for the relief of James Barrett, which was read twice by its title and, with the accompanying papers, referred to the Committee on Claims.

Mr. NEWLANDS introduced a bill (S. 7734) granting an increase of pension to Stephen Corwin, which was read twice by its title and referred to the Committee on Pensions.

Mr. GORE introduced a bill (S. 7735) granting an increase of pension to Joel E. Cox, which was read twice by its title and referred to the Committee on Pensions.

Mr. HALE introduced the following bills, which were severally read twice by their titles and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 7736) granting an increase of pension to Stephen M. Gilley; and

A bill (S. 7737) granting an increase of pension to Charles F. Smith.

Mr. BAILEY (by request) introduced the following bills, which were severally read twice by their titles and referred to the Committee on Claims:

A bill (S. 7738) for the relief of James Mack Brewer; and

A bill (S. 7739) for the relief of Ophelia V. Worsham.

Mr. BAILEY introduced a bill (S. 7740) for the relief of Emma L. Bryant, heir at law of Green Caswell Culp, which was read twice by its title and referred to the Committee on Claims.

Mr. SCOTT introduced a bill (S. 7741) granting an increase of pension to Thomas C. Shankland, which was read twice by its title and, with the accompanying papers, referred to the Committee on Pensions.

Mr. HEMENWAY introduced a bill (S. 7742) to increase the limit of cost for purchase of site and erection of a post-office building at Elwood, Ind., which was read twice by its title and referred to the Committee on Public Buildings and Grounds.

He also introduced the following bills, which were severally read twice by their titles and referred to the Committee on Pensions:

A bill (S. 7743) granting an increase of pension to Edward Price; and

A bill (S. 7744) granting an increase of pension to John W. Dyson.

Mr. STEPHENSON introduced the following bills, which were severally read twice by their titles and referred to the Committee on Pensions:

A bill (S. 7745) granting an increase of pension to James G. Moe;

A bill (S. 7746) granting an increase of pension to Earl M. Rogers;

A bill (S. 7747) granting an increase of pension to John Blade;

A bill (S. 7748) granting an increase of pension to Mark Smith;

A bill (S. 7749) granting an increase of pension to Charles H. Bassett;

A bill (S. 7750) granting an increase of pension to Levi Judd; and

A bill (S. 7751) granting an increase of pension to William R. Brabazon.

Mr. LODGE introduced a bill (S. 7752) for the relief of the Boston and Maine Railroad, which was read twice by its title and referred to the Committee on Post-Offices and Post-Roads.

Mr. RAYNER introduced a bill (S. 7753) for the relief of the legal representatives of Burgess Hammond, deceased, which was read twice by its title and, with the accompanying papers, referred to the Committee on Claims.

He also introduced the following bills, which were severally read twice by their titles and referred to the Committee on Pensions:

A bill (S. 7754) granting an increase of pension to George Bollinger (with the accompanying papers); and

A bill (S. 7755) granting a pension to Ezra J. Yingling.

Mr. MONEY introduced a bill (S. 7756) granting an increase of pension to John F. Davis, which was read twice by its title and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 7757) for the relief of Louis T. Barnes, deceased, which was read twice by its title and, with the accompanying paper, referred to the Committee on Claims.

Mr. WARREN introduced a bill (S. 7758) to amend section 2 of article 9 of an act entitled "An act to ratify and amend an agreement with the Indians residing on the Shoshone or Wind River Indian Reservation in the State of Wyoming and to make appropriations for carrying the same into effect," approved March 3, 1905, which was read twice by its title and referred to the Committee on Indian Affairs.

Mr. GAMBLE introduced a bill (S. 7759) granting an increase of pension to Owen Sheehy, which was read twice by its title and, with the accompanying papers, referred to the Committee on Pensions.

Mr. TALIAFERRO introduced a bill (S. 7760) for the relief of C. M. Cox, and to confirm and legalize his acts while acting as United States commissioner, which was read twice by its title and, with the accompanying paper, referred to the Committee on the Judiciary.

He also introduced the following bills, which were severally read twice by their titles and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 7761) granting an increase of pension to James Dixon;

A bill (S. 7762) granting an increase of pension to Joseph Andreu; and

A bill (S. 7763) granting an increase of pension to William H. McCormick.

He also introduced the following bills, which were severally read twice by their titles and, with the accompanying papers, referred to the Committee on Military Affairs:

A bill (S. 7764) for the relief of J. Randolph Peyton; and

A bill (S. 7765) to authorize the President to appoint Benja-

min F. Clayton captain of infantry in the army, and to place him on the retired list.

He also introduced a bill (S. 7766) to correct the naval record of William Henry Beehler and to authorize the President to appoint him a rear-admiral on the retired list, which was read twice by its title and, with the accompanying papers, referred to the Committee on Naval Affairs.

Mr. CULBERSON introduced a bill (S. 7767) to provide for the purchase of a site and the erection of a public building thereon at Longview, in the State of Texas, which was read twice by its title and referred to the Committee on Public Buildings and Grounds.

Mr. DIXON introduced a bill (S. 7768) granting a pension to Eugene Wessinger, which was read twice by its title and referred to the Committee on Pensions.

Mr. BORAH introduced a bill (S. 7769) providing for dismissal of indictments in case of failure to prosecute, which was read twice by its title and referred to the Committee on the Judiciary.

He also introduced the following bills, which were severally read twice by their titles and referred to the Committee on Territories:

A bill (S. 7770) to extend the provisions of section 4 of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1895, and for other purposes," approved August 18, 1894, and amendments thereto, to the Territory of New Mexico; and

A bill (S. 7771) to extend the provisions of section 4 of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1895, and for other purposes," approved August 18, 1894, and amendments thereto, to the Territory of Arizona.

Mr. GUGGENHEIM introduced a bill (S. 7772) to provide for instruction in forestry in the colleges of agriculture and mechanic arts established under the provisions of an act of Congress approved July 2, 1862, and for experiments in forestry in the agricultural experiment stations established under an act of Congress approved March 2, 1887, which was read twice by its title and referred to the Committee on Agriculture and Forestry.

Mr. McCREARY introduced a bill (S. 7773) for the relief of the heirs of Jerry H. Powell, which was read twice by its title and referred to the Committee on Claims.

He also introduced a bill (S. 7774) granting an increase of pension to W. T. McClure, which was read twice by its title and referred to the Committee on Pensions.

He also introduced a bill (S. 7775) granting an increase of pension to John H. Brandenburg, which was read twice by its title and, with the accompanying papers, referred to the Committee on Pensions.

Mr. CLAPP introduced a bill (S. 7776) to provide for the distribution of the reports of the United States circuit courts of appeals and of the United States circuit and district courts to certain officers of the United States, and for other purposes, which was read twice by its title and referred to the Committee on the Judiciary.

He also introduced a bill (S. 7777) to authorize the St. Paul Bridge and Terminal Railway Company to construct a bridge across the Mississippi River at or near St. Paul, Minn., which was read twice by its title and referred to the Committee on Commerce.

He also introduced a bill (S. 7778) to give the Court of Claims jurisdiction of certain Indian claims, which was read twice by its title and referred to the Committee on Claims.

Mr. LONG introduced a bill (S. 7779) granting an increase of pension to Robert L. McConaughy, which was read twice by its title and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 7780) for the relief of the Watson Mill Company, of the city of Wichita, State of Kansas, which was read twice by its title and referred to the Committee on Claims.

Mr. FILES introduced a bill (S. 7781) to extend the time for the construction and beginning construction of the Alaska Short Line Railroad in Alaska, which was read twice by its title and, with the accompanying papers, referred to the Committee on Territories.

Mr. FLINT introduced a bill (S. 7782) for the relief of James H. Owen, which was read twice by its title and referred to the Committee on Claims.

He also introduced a bill (S. 7783) making an appropriation for the construction of a roadway across the United States military and naval reservations on Point Loma, in California, which was read twice by its title and referred to the Committee on Military Affairs.

He also introduced a bill (S. 7784) to cause a preliminary examination or survey to be made of the Colorado River in the vicinity of Needles, Cal., which was read twice by its title and, with the accompanying papers, referred to the Committee on Commerce.

Mr. CRANE introduced a bill (S. 7785) relative to outward alien manifests on certain vessels, which was read twice by its title and referred to the Committee on Commerce.

He also introduced a bill (S. 7786) to authorize the reexamination of Maj. William P. Kendall, Medical Corps, U. S. Army, which was read twice by its title and referred to the Committee on Military Affairs.

He also introduced the following bills, which were severally read twice by their titles and referred to the Committee on Pensions:

A bill (S. 7787) granting an increase of pension to Sarah Couch;

A bill (S. 7788) granting a pension to Louise M. Bishop; and
A bill (S. 7789) granting a pension to Emeretta A. Catlin.

Mr. KEAN introduced the following bills, which were severally read twice by their titles and referred to the Committee on Pensions:

A bill (S. 7790) granting a pension to Jessie Stag; and
A bill (S. 7791) granting a pension to Emily F. Freeborn.

He also introduced a bill (S. 7792) to correct the military record of Albert Van Sickle, which was read twice by its title and referred to the Committee on Military Affairs.

Mr. PERKINS introduced a bill (S. 7793) to provide for the naturalization of aliens who have served or shall hereafter serve five years in the United States Navy or Marine Corps, which was read twice by its title and referred to the Committee on Naval Affairs.

Mr. SUTHERLAND introduced the following bills, which were severally read twice by their titles and referred to the Committee on Pensions:

A bill (S. 7794) granting an increase of pension to Henry E. Steele; and

A bill (S. 7795) granting an increase of pension to Emily W. Bailey.

Mr. WARNER introduced a bill (S. 7796) amending paragraph 14 of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1883, and for other purposes," approved August 7, 1882, which was read twice by its title and referred to the Committee on Appropriations.

Mr. BULKELEY introduced the following bills, which were severally read twice by their titles and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 7797) granting a pension to Isabella S. Hull; and
A bill (S. 7798) granting a pension to Emily C. Twitchell.

Mr. LA FOLLETTE introduced a bill (S. 7799) to create a commission to be known as the "public utilities commission of the District of Columbia" and to prescribe its powers and duties, which was read twice by its title and referred to the Committee on the District of Columbia.

Mr. OVERMAN introduced the following bills, which were severally read twice by their titles and, with the accompanying papers, referred to the Committee on Military Affairs:

A bill (S. 7800) to correct the military record of Timothy Edwards; and

A bill (S. 7801) to correct the military record of James Payne.
He also introduced a bill (S. 7802) granting an increase of pension to Daniel Lewis, which was read twice by its title and referred to the Committee on Pensions.

Mr. GALLINGER introduced a joint resolution (S. R. 106) authorizing the granting of permits to the committee on inaugural ceremonies, on the occasion of the inauguration of the President-elect, on March 4, 1909, and so forth, which was referred to the Committee on the District of Columbia.

Mr. WARREN introduced a joint resolution (S. R. 107) providing for the issue of certain campaign badges, which was read twice by its title and referred to the Committee on Military Affairs.

He also introduced a joint resolution (S. R. 108) authorizing the Secretary of War to receive for instruction at the Military Academy at West Point Mr. Demetrio Castillo, Jr., of Cuba, which was read twice by its title and, with the accompanying papers, referred to the Committee on Military Affairs.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. du PONT submitted an amendment proposing to appropriate \$25,000 for the purchase of additional land for the enlargement of the post-office and court-house at Wilmington, Del., etc., intended to be proposed by him to the general deficiency

appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. HEMENWAY submitted an amendment relative to the increase in the limit of cost for the purchase of a site and the erection of a post-office building at Elwood, Ind., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. M. C. Latta, one of his secretaries, announced that the President had on the 11th instant approved and signed the following act:

S. 3495. An act to authorize the transfer of books from the Treasury Department library to life-saving stations of the United States.

CONSULAR BUILDINGS IN CHINA, JAPAN, AND KOREA.

Mr. CULLOM submitted an amendment proposing to appropriate \$1,373,643 for the purchase of suitable lands and buildings to be connected with the consular establishments in China, Japan, and Korea, intended to be proposed by him to the diplomatic and consular appropriation bill, which was referred to the Committee on Foreign Relations and ordered to be printed.

Mr. CULLOM. Somewhat akin to the amendment just submitted, I present sundry papers, including a lengthy letter from the Secretary of State, with reference to the purchase of grounds and buildings in China, Korea, and Japan for use of our diplomatic service in those countries. I move that they be printed as a document and referred to the Committee on Foreign Relations. The motion was agreed to.

OMNIBUS CLAIMS BILL.

Mr. FULTON. Mr. President, I submit an amendment intended to be proposed by me to what is known as "the omnibus claims bill." I wish particularly to call the attention of Senators to the amendment. It proposes to repeal those sections of the Tucker-Bowman acts under which claims are transmitted to the Court of Claims. I move that the amendment be printed and lie on the table.

The motion was agreed to.

COMPANIES B, C, AND D, TWENTY-FIFTH INFANTRY.

Mr. FORAKER. Mr. President, I present an amendment to the bill (S. 5729) to correct the records and authorize the reenlistment of certain noncommissioned officers and enlisted men belonging to Companies B, C, and D, of the Twenty-fifth U. S. Infantry, who were discharged without honor under Special Orders, No. 266, War Department, November 9, 1906, and the restoration to them of all rights of which they have been deprived on account thereof.

I ask that the amendment I have just offered may be printed in the RECORD, and that it may be also printed and lie on the table; and in order that the bill, as it is so proposed to amend it, may be before the Senate, I ask that the bill as it will read when so amended, if this amendment should be adopted, may also be printed in the RECORD, and be printed, and lie on the table.

The VICE-PRESIDENT. Without objection, it is so ordered. The amendment and the bill as proposed to be amended are as follows:

By Mr. FORAKER:

An amendment intended to be proposed by him to the bill (S. 5729) to correct the records and authorize the reenlistment of certain noncommissioned officers and enlisted men belonging to Companies B, C, and D of the Twenty-fifth United States Infantry who were discharged without honor under Special Orders, No. 266, War Department, November 9, 1906, and the restoration to them of all rights of which they have been deprived on account thereof.

On page 2, lines 1 and 2, strike out the words "any duly authorized enlisting officer of the United States Army or Navy" and insert in lieu thereof the words, "the commission provided for by section 2, or who shall file with such commission an affidavit showing."

On page 2, line 13, after the word "is," insert the words "subject to the provisions of section 2 of this act."

On page 2, line 14, after the word "therefor," insert the words, "to any duly authorized recruiting or enlisting officer of the United States Army or Navy."

On page 2, line 15, after the word "time," strike out the word "within" and insert in lieu thereof the word "after."

On page 2, line 15, after the word "months," insert the words "and within one year."

On page 4, at the end of line 5, add as new sections the following:
SEC. 2. That Lieut. Gen. Adna R. Chaffee, U. S. Army, retired; Lieut. Gen. John C. Bates, U. S. Army, retired; Maj. Gen. George W. Davis, U. S. Army, retired; Maj. Gen. Jesse M. Lee, U. S. Army, retired; Brig. Gen. Aaron S. Daggett, U. S. Army, retired, are hereby constituted and appointed a commission to hear and determine all charges or objections tending to identify any of said noncommissioned officers and enlisted men mentioned in section 1 hereof as having participated in said shooting affray or as having withheld or refused to give knowledge with respect to said shooting affray that would lead to the identification of the participants therein.

The said commissioners shall meet in such place in the city of Washington as the Secretary of War may designate, and shall organize by

the selection of a chairman and a secretary, and the appointment of such other officers, assistants, or help as they may deem necessary. They shall have power to subpoena witnesses, compel their attendance, administer oaths, employ a stenographer, and incur all expenses necessary to the proper discharge of their duties. They are also authorized to consider in connection with any case brought before them any testimony that may have been heretofore given by such accused party, whether in the form of affidavit or otherwise.

They shall keep a record of all testimony taken by them and of their finding as to each case that may be presented.

They shall have authority to receive said charges and objections tending to establish the identity of the participants in said affray or the withholding of information with respect thereto for the period of three months from and after the passage of this act. Upon the filing of any such charge against any of said noncommissioned officers or enlisted men the commission shall give notice to the party against whom the same have been filed, and give him an opportunity to be heard in answer to such charges and any testimony that may be offered in support thereof; and the party so appearing to answer said charges and said testimony may employ counsel to represent and assist him in making his defense and in producing counter testimony.

It shall be the duty of the commission upon the conclusion of the hearings in each case to make a finding as to whether or not, in its opinion, the party so charged has been shown to have participated in the said affray or to have withheld information which, if given, would have disclosed who the participants were.

If the party so charged shall be acquitted by the judgment of the commission, and not otherwise, he shall then be permitted to reenlist and to enjoy all the rights and privileges by this act conferred.

For the purpose of fully hearing and determining all such cases as may be presented, the commission is hereby authorized to continue its sittings and hearings beyond the period of three months from and after the date of this act until its work is finally concluded.

Sec. 3. The provisions of section 1 for the reenlistment of said noncommissioned officers and enlisted men shall be available to all of said men from and after the expiration of three months and within one year from the passage of this act against whom no charges have at that time been filed with said commission. From and after that date all said noncommissioned officers and men may be reenlisted against whom such charges have been filed, but as to whom said charges have been found by said commission not to have been sustained, provided they reenlist within three months after such finding is announced.

Sec. 4. That nothing in this act contained shall be construed to prohibit the prosecution and punishment of any soldier reenlisting under the provisions hereof as to whom it may at any time hereafter appear from testimony taken before said commission, or otherwise, that he did participate in said shooting affray or have knowledge thereof which he has withheld.

Sec. 5. That all reenlistments under the provisions hereof of soldiers who at the time of their discharge without honor were serving terms of enlistment which have not yet expired shall be held to be for only the remaining portion of said unexpired term, respectively.

Sec. 6. If for any cause a vacancy should occur in the membership of said commission, it may be filled by such person as the remaining members thereof may select.

Sec. 7. The members of said commission shall receive full pay and allowances according to their rank, respectively, as though on the active list, during the period of their services hereunder.

A bill (S. 5729) to correct the records and authorize the reenlistment of certain noncommissioned officers and enlisted men belonging to Companies B, C, and D of the Twenty-fifth United States Infantry who were discharged without honor under Special Orders, No. 266, War Department, November 9, 1906, and the restoration to them of all rights of which they have been deprived on account thereof.

Be it enacted, etc., That any noncommissioned officer or enlisted man belonging to Company B, C, or D of the Twenty-fifth United States Infantry, discharged without honor under Special Orders, No. 266, War Department, dated November 9, 1906, on account of the shooting affray that occurred at Brownsville, Tex., on the night of August 13-14, 1906, who shall make oath before the commission provided for by section 2, or who shall file with such commission an affidavit showing that he did not participate in said affray, and that he does not know of any soldier belonging to any of said companies who did participate in the same, and that he has not at any time heretofore and does not now withhold any knowledge with respect to that occurrence which, if made public, would or might lead to the identification of any participant in said shooting affray or any accessory thereto, either before or after the fact, and that he has answered fully to the best of his knowledge and ability all questions that have been lawfully put to him by his officers or others in connection therewith, shall be, and hereby is, subject to the provisions of section 2 of this act, made eligible to reenlist in the military or naval forces of the United States on his application therefor to any duly authorized recruiting or enlisting officer of the United States Army or Navy at any time after three months and within one year from and after the passage of this act, any statute or provision of law or order or regulation to the contrary notwithstanding; and that upon such reenlistment he shall be allowed full pay, according to the rank he held and the pay he was receiving at the date of discharge, until his reenlistment: *Provided*, That all the rights and privileges to which the soldiers reenlisting under the provisions of this act were entitled, respectively, at the time of their discharge shall be, and hereby are, fully restored to them, and the record showing their discharge without honor shall be, and hereby is, annulled, set aside, and held for naught, and the time elapsing since their discharge without honor until the date of such reenlistment shall be computed in determining all rights to which they may be respectively entitled on account of continuous service as though they had been in the service without interruption, and they shall not suffer any forfeiture of any right or privilege by reason of such discharge: *Provided further*, That in any case where the regular term of enlistment which the soldier was serving at the time when discharged without honor has in the meanwhile expired, his record shall be, and hereby is, corrected so as to show an honorable discharge at the time of the expiration of such enlistment, and he shall be allowed full pay and all rights and privileges until that time; and in the event of the reenlistment of such soldier under the provisions of this act his term of reenlistment shall be deemed to have commenced as of the time when his previous enlistment expired, and his service under such reenlistment shall be without prejudice of any kind by reason of his former discharge without honor: *And provided further*, That in case any of the noncommissioned officers or enlisted men belonging to said companies and discharged without honor shall have died since they were so discharged and before the passage of this act, but who shall have testified under

oath or made affidavit before their death that they did not participate in said shooting affray or have any knowledge with reference thereto, their respective records shall be, and hereby are, corrected in accordance with the provisions of this act, and their legal representatives shall be entitled to all pay that would have become due to them from the time of their discharge until the time of their decease.

Sec. 2. That Lieut. Gen. Adna R. Chaffee, U. S. Army, retired; Lieut. Gen. John C. Bates, U. S. Army, retired; Maj. Gen. George W. Davis, U. S. Army, retired; Maj. Gen. Jesse M. Lee, U. S. Army, retired; Brig. Gen. Aaron S. Daggett, U. S. Army, retired, are hereby constituted and appointed a commission to hear and determine all charges or objections tending to identify any of said noncommissioned officers and enlisted men mentioned in section 1 hereof as having participated in said shooting affray or as having withheld or refused to give knowledge with respect to said shooting affray that would lead to the identification of the participants therein.

The said commissioners shall meet in such place in the city of Washington as the Secretary of War may designate and shall organize by the selection of a chairman and a secretary and the appointment of such other officers, assistants, or help as they may deem necessary. They shall have power to subpoena witnesses, compel their attendance, administer oaths, employ a stenographer, and incur all expenses necessary to the proper discharge of their duties. They are also authorized to consider in connection with any case brought before them any testimony that may have been heretofore given by such accused party, whether in the form of affidavit or otherwise.

They shall keep a record of all testimony taken by them and of their finding as to each case that may be presented.

They shall have authority to receive said charges and objections tending to establish the identity of the participants in said affray or the withholding of information with respect thereto for the period of three months from and after the passage of this act. Upon the filing of any such charges against any of said noncommissioned officers or enlisted men, the commission shall give notice to the party against whom the same have been filed, and give him an opportunity to be heard in answer to such charges and any testimony that may be offered in support thereof; and the party so appearing to answer said charges and said testimony may employ counsel to represent and assist him in making his defense and in producing counter testimony.

It shall be the duty of the commission upon the conclusion of the hearings in each case to make a finding as to whether or not, in its opinion, the party so charged has been shown to have participated in the said affray or to have withheld information which, if given, would have disclosed who the participants were.

If the party so charged shall be acquitted by the judgment of the commission, and not otherwise, he shall then be permitted to reenlist and to enjoy all the rights and privileges by this act conferred.

For the purpose of fully hearing and determining all such cases as may be presented, the commission is hereby authorized to continue its sittings and hearings beyond the period of three months from and after the date of this act, until its work is finally concluded.

Sec. 3. The provisions of section 1 for the reenlistment of said noncommissioned officers and enlisted men shall be available to all of said men from and after the expiration of three months and within one year from the passage of this act, against whom no charges have at that time been filed with said commission. From and after that date all said noncommissioned officers and men may be reenlisted against whom such charges have been filed, but as to whom said charges have been found by said commission not to have been sustained, provided they reenlist within three months after such finding is announced.

Sec. 4. That nothing in this act contained shall be construed to prohibit the prosecution and punishment of any soldier reenlisting under the provisions hereof as to whom it may at any time hereafter appear from testimony taken before said commission, or otherwise, that he did participate in said shooting affray or have knowledge thereof which he has withheld.

Sec. 5. That all reenlistments under the provisions hereof of soldiers who, at the time of their discharge without honor, were serving terms of enlistment which have not yet expired shall be held to be for only the remaining portion of said unexpired term, respectively.

Sec. 6. If for any cause a vacancy should occur in the membership of said commission, it may be filled by such person as the remaining members thereof may select.

Sec. 7. The members of said commission shall receive full pay and allowances according to their rank, respectively, as though on the active list during the period of their services hereunder.

Mr. FORAKER. Now, I ask the Senate to indulge me just a moment until I explain what the amendment is and why I offer it. I ask as explanatory of it that the Secretary will read, commencing at section 2, from that on.

The VICE-PRESIDENT. The Secretary will read as requested.

The Secretary read as directed.

Mr. FORAKER. Mr. President, it must have been observed by every Senator who listened to the reading of this proposed amendment that the purpose of it is to establish a tribunal before which charges against these men, tending to identify them or any one of them as having participated in the shooting affray at Brownsville, may be heard—a tribunal before which they can appear where the charges can be presented and where the persons against whom the charges are made can have a chance to be heard in answer.

It is an elementary proposition in American law and in consonance with the spirit of American institutions that the accused shall always have an opportunity to confront the accuser and to answer testimony with testimony.

I did not suppose, when the bill was framed and introduced by me, that it would be necessary to have any further hearing of this character; but during the months of the vacation there have been coming to me letters written by one of these discharged soldiers—I hold a bundle of them in my hand—informing me how men claiming to be detectives representing the United States Government (of course not secret-service men, for they could not lawfully be so employed, but nevertheless

detectives, as they turned out to be—at least claimed to be) visited them, engaged them in conversation, dwelling and abiding with some of them, telling them what different members of the battalion had already stated in the nature of confessions, and appealing to them, if they would save themselves from prosecution, to make a like confession.

I will not detain the Senate to read at length, but I have, through my stenographer, copied out in typewritten form, which I will send to the desk, omitting all names that might lead to the identity of the person, a sample of these letters. This letter is from a soldier who has told how he has been approached by two or three different detectives on two or three different occasions, and how various things have been told him to persuade him and to induce him and then to threaten him into making a confession of some kind.

Do you know an ex-soldier (by the name of) ———?

I said, "No, sir; I don't know him."

He said, "Well, he knows you, and said you and ——— and ——— said you were going to shoot up that town."

I said, "I haven't seen that negro; haven't told him anything; furthermore, I was ——— that night and couldn't have ——— if I wanted to."

He said, "Remember, you are not the only soldier talking; we have 20 talking, and they are peaching, too: as I said, I will protect you."

"Tell us the story; don't be afraid; we have almost got it like we want it, and remember the Government never gives a thing up until it is finished."

He said, "We have been able to prove that B Company did the shooting, and what I want you to tell me is just the men that did the shooting. I know you can, if you will. We already know three men that did it, but we want the whole gang."

I omit some paragraphs:

He said: "I want to ask you a few more questions. I want to know, and I want you to tell me the truth; tell me who talked with you in Washington before you went on the stand?"

I told him no one.

"Now," he said, "isn't it true that Mr. FORAKER told you all how to swear before you went in committee room?" I said, "No, sir. I saw him passing, and some one said there goes Senator FORAKER."

He said, "Who met you at the train when you went to Washington?" I told him no one.

Then he wanted to know if I had any letters from Mr. FORAKER.

There seems to be a good deal of curiosity about my correspondence.

I said, "Sir, I have only one letter from him." Then he asked me if I had it with me.

I said, "No, sir; but I can get it as quick as you ever saw anybody get anything, if you think it will do you any good." He said, "I will be glad for you to go and get it; I would like to see some of the Senator's writing." I came home and got the letter and showed it to him. He read it, and quickly folded it, and handed it back to me, and said, "There is nothing there to hurt anyone." Then he asked me to give him the names of all the ball players in B Company.

He asked me did I have a group of the boys. I told him I did. He told me he would like to see it; for me to go and get it, if it wasn't much trouble. I told him it wouldn't be, any trouble; so I got it and showed it to him. Then he took their names down, right to left, like they were on the picture; then he began to point out some of the men on the picture to Mr. ——— that he thought was implicated in the matter; then he wanted to know if I had any of the rest of the soldiers' pictures; if so, he wanted to see them. I showed him all I had. He kept trying to persuade me to tell him who did the shooting, which was impossible for me to tell him; he also repeats there is a lot of them talking now; said ——— has acknowledged that he was in the shooting.

I said, "Mr. ———, if ——— has been man enough to tell you he was in the shooting, it looks funny he didn't tell you who else was in it." He said, "That's all right; it's all coming out."

Then he began to ask me about my family; said it would be bad for me to have to leave a young family and be turned over to the State of Texas. I told him before I would be willing to swear a lie on anybody I would be willing to go to Texas or anywhere else, because the truth stands in its place. He said, "You know if you go to Texas nobody knows the result. You will get there. You may never return here any more." I said, "God's will must be done. If it is His will for me to go, I suffer His will may be done."

Now, I might read at length to the same character, but it is not necessary. I have read what I have read only to show, if there be any truth in this, that there is still an effort being made on the part of the Government to find out, by seeking for confessions and otherwise, how to identify some of these discharged soldiers as having participated in that offense.

Mr. President, I have no objection to that. Upon the testimony as it stands now I am of the opinion none of the soldiers did any shooting in that town that night; but about that, as I have repeatedly said, I may be mistaken. I do not know who did it, but I do know that if there be a guilty man in that battalion, no man should throw a straw in the way of having that guilt established.

But, Mr. President, there is a right way and a wrong way to do these things. It seems to me that these men, poor, helpless, friendless, as they are, should at least have the benefit secured to them by the Congress of the United States of having an opportunity to confront their accusers, to answer testimony with testimony; that it is contrary to the spirit of American institutions that men should be found guilty of crime, serious crime, the crime of murder, if you please, as well as numerous crimes that go hand in hand with the commission of this

offense, in this instance, by such methods as are represented in the letter from which I have read briefly.

Therefore it is not for the purpose of standing in the way of any proper investigation, but for the purpose of authorizing such further investigation as may be desired that I have undertaken to create a tribunal, and I have undertaken to name the members who shall compose that tribunal. I have selected retired army officers.

I have sought to name men who are high enough in rank and old enough in age as well as in service to be absolutely free and independent, to have absolutely free and unbiased minds to bring to bear in passing judgment upon charges that may be offered before them. The charge contemplated to be there offered and passed upon is simply the charge of any nature that will tend to identify any one of these soldiers against whose reenlistment anybody may desire to offer any such objection.

Now, I want to remind Senators that this whole subject has come down to a very narrow point. There is no longer before us any question as to the constitutional power of the President to discharge, for whether he has that power or not he has discharged these men; they are out of the service. We have heard everybody testify who was willing to come before us or whom we could subpoena from whom we thought we could get any evidence that would give us any light.

The case in that respect was entirely made up when the committee made its report; and as a result of the testimony so taken and reported by the committee to the Senate, the President himself joining with a majority of the members of that committee, came to the conclusion that there were innocent men in this battalion who ought to be given permission to reenlist. But recognizing that there was no power except in Congress to authorize the reenlistment, the President sent us a special message asking us to authorize the reenlistment of every man of the battalion whom he had discharged who could establish to his satisfaction his innocence.

I introduced a bill which omitted that requirement and put in some others. Inasmuch as two years, or nearly that, had then elapsed without any evidence being offered by anybody to identify any individual, and inasmuch as great effort had been made to get a clew of evidence that would identify some individual, it seemed to me all should be reenlisted, but that the right should be reserved—and I so provided in the bill I introduced—to prosecute any and all before any civil or military tribunal, as the case might require, against whom any evidence might hereafter be brought by anybody to show that they did have participation in that offense.

I thought that would be sufficient. I thought it was at the time. But now that more time has elapsed and that these efforts are going on, and especially in view of the fact that I am informed by these letters, and the Senate is informed by what I have read, that it is claimed by men who claimed that they were representing the Government that some of these soldiers have been giving affidavits which tend to establish their guilt, I think the whole thing should be brought out into the open, and that the bill should be amended in the way I have suggested or in some other proper way. I am not particular as to the special manner in which this wrong, in so far as a wrong has been committed, shall be righted, but I am anxious to get a bill that will be fair to the army, fair to the soldiers, fair to the people of this country, and fair to the Senate that is called upon to consider it.

Mr. CULBERSON. Mr. President, while we are upon this subject of the Brownsville outrage I will state that my information is that there has been communicated to the Senate this morning a message from the President upon the subject, and in order that we may have what appears in the RECORD to-day consecutively I ask that the message be now read.

The VICE-PRESIDENT. The Chair lays before the Senate a message from the President of the United States, which will be read.

The Secretary read the message, as follows:

To the Senate:

I inclose herewith a letter from the Secretary of War transmitting a report of the investigation made by Mr. Herbert J. Browne, employed by the department in conjunction with Capt. W. G. Baldwin to investigate as far as possible what happened at Brownsville on the 13th and 14th of August, 1906. The report and documents contain some information of great value and some statements that are obviously worthless, but I submit them in their entirety.

This report enables us to fix with tolerable definiteness at least some of the criminals who took the lead in the murderous shooting of private citizens at Brownsville. It establishes clearly the fact that the colored soldiers did the shooting; but

upon this point further record was unnecessary, as the fact that the colored soldiers did the shooting has already been established beyond all possibility of doubt. The investigation has not gone far enough to enable us to determine all the facts, and we will proceed with it; but it has gone far enough to determine with sufficient accuracy certain facts of enough importance to make it advisable that I place the report before you. It appears that almost all the members of Company B must have been actively concerned in the shooting, either to the extent of being participants or to the extent of virtually encouraging those who were participants. As to Companies C and D, there can be no question that practically every man in them must have had knowledge that the shooting was done by some of the soldiers of B Troop, and possibly by one or two others in one of the other troops. This concealment was itself a grave offense, which was greatly aggravated by their testifying before the Senate committee that they were ignorant of what they must have known. Nevertheless, it is to be said in partial extenuation that they were probably cowed by threats, made by the more desperate of the men who had actually been engaged in the shooting, as to what would happen to any man who failed to protect the wrongdoers. Moreover, there are circumstances tending to show that these misguided men were encouraged by outsiders to persist in their course of concealment and denial. I feel, therefore, that the guilt of the men who, after the event, thus shielded the perpetrators of the wrong by refusing to tell the truth about them, though serious, was in part due to the unwise and improper attitude of others, and that some measure of allowance should be made for the misconduct. In other words, I believe we can afford to reinstate any of these men who now truthfully tell what has happened, give all the aid they can to fix the responsibility upon those who are really guilty, and show that they themselves had no guilty knowledge beforehand and were in no way implicated in the affair, save by having knowledge of it afterwards and failing and refusing to divulge it. Under the circumstances, and in view of the length of time they have been out of the service, and their loss of the benefit that would have accrued to them by continuous long-time service, we can afford to treat the men who meet the requirements given above as having been sufficiently punished by the consequences they brought upon themselves when they rendered necessary the exercise of the disciplinary power. I recommend that a law be passed allowing the Secretary of War, within a fixed period of time, say, a year, to reinstate any of these soldiers whom he, after careful examination, finds to have been innocent and whom he finds to have done all in his power to help bring to justice the guilty.

Meanwhile the investigation will be continued. The results have made it obvious that only by carrying on the investigation as the War Department has actually carried it on is there the slightest chance of bringing the offenders to justice or of separating not the innocent, for there were doubtless hardly any innocent, but the less guilty from those whose guilt was heinous.

THEODORE ROOSEVELT.

THE WHITE HOUSE, December 14, 1908.

Mr. CULBERSON. I ask that the report of the Secretary of War which accompanies the message be read.

The VICE-PRESIDENT. Without objection, the accompanying report will be read.

The Secretary read as follows:

WAR DEPARTMENT,
Washington, December 10, 1908.

MY DEAR MR. PRESIDENT: I have the honor to send you herewith a report of investigation made by Mr. Herbert J. Browne, who was employed by this department in conjunction with Capt. W. G. Baldwin to investigate as far as possible the occurrence at Brownsville on the 13th and 14th of August, 1906.

Sincerely yours,
The President.

LUKE E. WRIGHT.

GENERAL REPORT.

WASHINGTON, D. C., December 5, 1908.

SIR: I have the honor to submit the following report relative to the investigation of the Brownsville raid:

Ex-Private Boyd Conyers, of Company B, Twenty-fifth Infantry, now at Monroe, Ga., told William Lawson, a detective in the employ of Capt. William G. Baldwin, of Roanoke, Va., that he and three [or four] other men of the Twenty-fifth Infantry were the leaders in the Brownsville raid. This information was obtained at different dates during the month of June, 1908. (See Exhibit A.)

I submit the affidavit as presented. There are certain discrepancies of a minor character, due to the fact that Lawson is illiterate and had to depend on his memory for details. But it should be borne in mind that Lawson was unacquainted with the details of the Brownsville raid and was given information which could have come only from one familiar with the secret history of the affair. Lawson's first report included the names of Conyers, John Holloman, John Brown, and "another man." Subsequently he supplied the name of James Powell, but I think the original name given was that of Robert L. Collier, Company C, one of the relief guard. This information was corroborated in the presence of witnesses, but before Lawson could finish his work Conyers became suspicious and would give no further evidence incriminating himself. From then on he furnished to A. H. Baldwin, Capt. W. G. Baldwin, and to myself information piecemeal and reluctantly. The name of Carolina de Saussure, his bunk mate, was the last one obtained.

Conyers tried to commit suicide after he found that he had made his statements to a detective, declaring that the other negroes would kill him when it got out. He finally wrote to Senator FORAKER and received a reply, a copy of which is annexed. That reply he construed to mean that he should stick to his original story told before the Senate committee at all hazards, and there he stands. I have every reason to believe that his confession is genuine and gives for the first time the true secret history of the Brownsville raid.

The list of participants given in this report Conyers furnished me personally. I believe it is substantially correct, but with the influences shown to be backing Conyers to adhere to his false testimony given before the Senate committee still being exerted he can not be relied on to support his own confession until it is thoroughly sustained from other sources.

Evidences of similar encouragement to stick to the lies told at Brownsville and before the Senate committee were found in many places, and subsequent to the date of the Foraker letter they became stronger and more obstructive than ever.

The investigation has been conducted with strict recognition of the advisability of preserving secrecy, and with discretion. No promises of immunity were made. The knowledge on the part of the ex-soldiers that the Government could not punish them after their separation from the service, coupled with the belief that by preserving silence they would aid in the passage of the relief legislation now pending in Congress, has added to the difficulty of securing information.

The issue has evidently become racial. The colored detectives would be confronted frequently in the smaller towns where these men are living with a demand from colored men for information as to their business.

We have located over 130 of these ex-soldiers, and have been in 30 States in quest of information. The appendices give statements as to the results obtained. They indicate a general knowledge on the part of the ex-soldiers that the raid came from inside the fort and that the soldiers of Company B were the guilty parties.

We earnestly urge that we be permitted to continue the investigation. Several detectives are still in the field, and within the coming week a number of affidavits will be forthcoming.

With some repetition of matter appearing later in the report, Boyd Conyers's story is given here in narrative form:

"The rumors of trouble over the assignment of colored troops to Brownsville were circulated before the troops left Fort Niobrara, and preparations were made among the men to 'get even with the crackers,' so the whites were called. Some cartridges were held out at range practice, but more en route to Brownsville. Pretense was made that they were given away at stations along the road. Some were, but a large number were secreted.

"At inspection in Brownsville Lieutenant Lawrason, Company B, threatened punishment to the men who were short of ammunition, but nothing was done about it, and the deficiency was supplied.

"The friction with citizens of Brownsville began at once. In Boyd Conyers's language, 'Whisky made all the trouble. If we hadn't been drinking we wouldn't have had the nerve to shoot up the town.'

"It was agreed at a gathering of a few men in the saloon of Allison, the colored ex-soldier, on the afternoon of August 13, 1906, that the raid should take place that night at 12 o'clock. It seems to have been delayed a few minutes to let Tamayo, the Mexican scavenger, get away from the B barracks.

"John Holloman, the money lender of Company B, was the chief conspirator and leader in the raid and custodian and distributor of the cartridges, but his plans could not have been carried out had not Sergt. George Jackson, of Company B, in charge of the keys to the gun racks in B barracks, and Sergeant Reid, in command of the guards, co-operated both before and after the raid.

"The four men who led the raid were John Holloman, John Brown, Boyd Conyers, and Carolina de Saussure, all of Company B (and probably R. L. Collier, of Company C). Holloman was in barracks, Brown in the bake shop, Conyers and De Saussure in the guardhouse. The two latter were in the same detail and had been relieved at about 11 o'clock, De Saussure on the post at the guardhouse, and Conyers on No. 2, around the barracks and facing the town. Holloman got the party together. Conyers and De Saussure slept on the same bunk in the guardhouse, claiming that they wanted to get under the mosquito net, and they had the trick of taking their guns into the bunk instead of placing them in the open rack, on the excuse that they didn't rust so badly under cover, but really so the absence of the guns from the open guardhouse rack would not attract attention, and their own absence would be ascribed to a visit to the closet, which was back of the guardhouse. These two men slipped out the rear door of the guardhouse, passed through the Sally port, and joined Holloman and Brown.

"The party crossed the wall of the fort down near the end of A barracks, went up the roadway to the entrance to the Cowen alley, where the signal shots were fired. These shots were immediately tallied onto by the alarm shots of Joseph B. Howard, guard on No. 2, and formed the series testified to by Mrs. Katie E. Leahy, of Brownsville. Her testimony is further borne out by the statement that not over thirty seconds elapsed before a number of the men of Company B swarmed out on the upper gallery and opened a fusillade on the town.

"It is an absolute certainty that it would have been impossible for Sergeant Jackson to have opened the gun racks, for the men to have assembled, secured their guns, loaded them, gone out to the gallery, and started firing all after the first shot was fired, all aroused, as they testified unanimously, from sound slumber in less than two minutes in the confusion of a dark barrack room. Beyond the possibility of a doubt the racks had been opened and the inside conspirators were ready to pour out on the signal shots. The testimony is ample that there were scarcely twenty seconds between the last of the signal shots and the first general volley from B barracks.

"The number firing from the barracks is unknown, but perhaps 20 men were involved. A smaller number went to the ground and followed the leaders up the alley. It will be remembered that one of the witnesses testified to hearing some one of the group of soldiers exclaim, 'There they go!' Whereupon these men leaped over the wall and ran up the alley.

"Boyd Conyers is the man whose gun jammed at the exit of the alley by the Cowen house, testified to by Herbert Elkins, and it was taken from him by De Saussure and fixed in the street where the light from the street lamp at the corner of Elizabeth street shone on them.

"Less than five minutes elapsed from the time the first shot was fired until these men were all back inside the fort.

"Conyers stated that Reid was told that they were going to shoot up the town, and he had laughed and said, 'Don't go out there and let the crackers get the best of you.'"

"When Conyers and De Saussure reached the guardhouse they ran in the back way and got into their bunks. Sergeant Reid came in and swore at them, but Conyers was so excited and out of breath that he could hardly stand, so Reid stationed him at the rear of the guardhouse in the dark where he could not be scrutinized so closely."

"Holloman came around with extra cartridges about daybreak and Reid passed them out. The guns were all cleaned before daylight."

"This day personally appeared before me William Lawson, who, being duly sworn, deposes and says:

"On June 5, 1908, I was sent to Monroe, Ga., to interview Boyd Conyers, one of the soldiers who was stationed at Brownsville, Tex., in August, 1906. I was sent by Mr. Baldwin to get in with Conyers and ascertain if he knew who did the shooting at that point. I was not given the names of any of the members of either of the companies stationed at that point, nor was I given any other information, except the fact that a shooting occurred at the time and place above mentioned and that Boyd Conyers was suspected of knowing who did same."

"I arrived at Monroe, Ga., on June 5, and stopped at the home of Esther Crews, colored. I met Boyd Conyers, who is known as 'Buddle' Conyers, on the morning of June 6, but had very little conversation with him, but was introduced to him as an old soldier. On the morning of June 8, between 8 and 9 o'clock, I met Conyers about halfway between the station house and Main street. We talked some twenty or twenty-five minutes. I broached the Brownsville case, and mentioned the fact that the soldiers had shown their good sense by keeping their mouths while at Washington. I then asked him what the motive was for the shooting. He told me that the 'crackers' at Brownsville had made threats that they would have no negro soldiers at Brownsville, and the soldiers had made it up in their minds that if they bothered them that they would go in and clean up the ground. He also said that they mentioned this to Sergeant Reid, who was commander of the guards, and that Reid said, 'All that I have to say is to take care of yourself and the boys when you go down there.' S. H. Parker, whose home is at Charleston, S. C., was present and heard the same conversation."

"About then a gentleman called Conyers to come and clean some clothes, and Conyers left, and nothing further was said about the matter at this time. I was with Conyers nearly every day, and went to Gainesville, Ga., on an excursion with him on the 15th of June. I did not mention the Brownsville matter to Conyers again until on the 29th of June, when I returned from Atlanta, having gone there on June 27. On this date I met him at Joe Blassingame's, and had a pint bottle of liquor, offered him a drink—he would not drink in the house, but we went up the street and we stopped under a storehouse porch, near Main street. We took a drink or two, and I started the Brownsville case again. He told me that he was doing guard duty at the time of the shooting at Brownsville, and was stationed at the outlet toward the town. He said that when the guard was called the night of the shooting they mentioned to Sergeant Reid what had occurred downtown, and he said, 'Boys, if you are not satisfied, you will have to go and get satisfied,' and they remarked that they were going to get satisfaction that night. Reid then laughed and said, 'Boys, don't you go down there and let them get the best of you.' He then assigned the guard and went away."

"In this conversation Conyers told me that John Brown, J. H. Holloman, and a man named Powell, and several others, came down where he was on guard, and that they went downtown and just gave them hell, and after they shot out all of their cartridges they ran back to the barracks, and when they got back to the barracks they found that the alarm had been sounded and the officers were calling the roll. Holloman, Brown, and himself were late for roll call, but that some one answered for Brown and Holloman, but that he was late, and that Reid told him that they had gotten themselves and himself in a hell of a hole, and told him to go to the guardhouse and pretend to be asleep, which he did."

"He told me that they had slipped a few cartridges when at target practice, and that before inspection, after the shooting, Reid gave him some cartridges to replace the ones he had used. He further said that they had all agreed before they went out that they would keep their mouths, and that he would have told them at the investigation at Washington all about the shooting, but that he was afraid. I had no further talk with Conyers, because I saw that I was being suspected by the negroes around Monroe, Ga."

"WILLIAM (his x mark) LAWSON."

Witnesses:

H. J. BROWNE,
GEO. W. MADERT.

DISTRICT OF COLUMBIA, ss:

Subscribed and sworn to before me, a notary public in and for the District aforesaid, this 16th day of October, A. D. 1908.

[SEAL.]

GEO. W. MADERT,
Notary Public.

This day personally appeared before me Herbert J. Browne, of Washington, D. C., who, being duly sworn, deposes and says:

"I was employed by the War Department in May, 1908, in company with Capt. William G. Baldwin, of Roanoke, Va., chief of the Baldwin Detective Agency, to investigate the conduct of the battalion of the Twenty-fifth Infantry, stationed at Brownsville, Tex., which conduct resulted in the Brownsville raid, so called, on the night of August 13-14, 1906, wherein one Frank Natus was killed, Lieutenant of Police Dominguez badly wounded, and the houses of several citizens were shot into. Captain Baldwin has charge of the secret work for the Norfolk and Western Railway, the Chesapeake and Ohio Railway, the Southern Railway, and the Atlantic Coast Line, and is one of the best-known and most responsible detectives in the country."

"In conjunction with him I have been continuously employed upon this work since its inception, in May."

"The facts set forth in my report addressed to Gen. George B. Davis, Judge-Advocate-General, War Department, under date of December 5, 1908, are true to the best of my knowledge and belief."

"In particular I visited Monroe, Ga., to corroborate the investigation at that point of William Lawson, a colored detective in the employ of Captain Baldwin, whose affidavit and reports are annexed to and made a part of my report of December 5, 1908, above referred to."

"I had several interviews at Monroe with Boyd Conyers, ex-private of Company B, Twenty-fifth Infantry, one of the guard on the night of the Brownsville raid, and found that William Lawson's statements regarding Conyers were substantially and essentially correct. I personally obtained from Conyers further information detailing how the car-

tridges used in the raid were surreptitiously and illegally obtained and distributed, how the principal raiders proceeded, when and by whom the gun racks in Company B were unlawfully and secretly opened for the purpose of the raid, how the raiders were protected during and subsequent to the raid and given opportunity to clean their guns, and, in particular, was furnished by Conyers with the names of 8 participants in the raid other than the 3 named by him in his statements to William Lawson, a total of 11, including himself, the said Conyers, all members of Company B, Twenty-fifth Infantry."

"The leaders of the raid, as named by Boyd Conyers, were John Holloman, John Brown, Carolina de Saussure, and himself. Following them were William Anderson, James Bailey, Charles E. Cooper, William Lemons, Henry Jimerson, James (Rastus) Johnson, and Henry (Sonny) Jones. Sergeant Reid, in charge of the guard, was accused by Conyers of knowledge before and after the raid. Sergt. George Jackson, in charge of the keys of the gun racks of Company B, was accused of opening the racks for the raiders, and of again opening them subsequent to the raid in order that the guns might be removed and cleaned."

"I found Boyd Conyers in a disturbed frame of mind. No claim is made that his original declarations to William Lawson were other than those of a criminal boasting to one of his own race of his crime and of his success in escaping discovery. His subsequent declarations to me were given partly during moments of contrition and in a desire to unload his conscience by a confession and partly as the result of careful and persistent questioning."

"I found the effect of the letter from Senator FORAKER to Conyers extremely obstructive. He seemed to regard it as a mandate to adhere to the false story told by him before the Senate Committee on Military Affairs, and as absolving him from any and all obligations to aid in uncovering the truth. Similar influences were encountered at many points, adding largely to the difficulty of obtaining admissions of even the most obvious facts relative to the raid."

"HERBERT J. BROWNE."

Subscribed and sworn to before me this 9th day of December, 1908.

[SEAL.]

J. B. RANDOLPH, Notary Public.

THE GUARD.

Analyzing the admitted facts and recorded testimony concerning the guard on the night of August 13-14, 1906, the following is presented:

The guard consisted of 17 men, to wit:

Sergt. J. R. Reid, Company B, in charge.
Corpl. Ray Burdett, Company B.
Corpl. Anthony Franklin, Company B.
Corpl. Samuel Wheeler, Company D, on post.
Musician Hoyt Robinson, Company D.
Pvt. Boyd Conyers, Company B.
Pvt. Carolina de Saussure, Company B.
Pvt. Lawrence Daniels, Company B.
Pvt. Frank Bounslar, Company C.
Pvt. R. L. Collier, Company C.
Pvt. Joseph Rogers, Company C.
Pvt. Andrew Mitchell, Company C.
Pvt. S. M. Battle, Company D.

On post:

No. 1, Pvt. B. F. Johnson, Company D.
No. 2, Pvt. Joseph Howard, Company C.
No. 3, Pvt. Charley Hairston, Company B.
No. 4, Pvt. Alexander Ash, Company D.

None of the men on post is implicated in the charges as active participants in the raid.

Of the men on relief Pvt. Boyd Conyers's statements directly affect himself and Pvt. Carolina de Saussure as two of the principal participants and ringleaders, and Sergt. J. R. Reid as having guilty knowledge before and after the raid, using his position to aid in covering and protecting the raiders."

There is strong circumstantial evidence pointing to the participation of Pvt. R. L. Collier in the raid and guilty knowledge after the raid on the part of several of the guard relief. Of the relief guard, noncommissioned officers and men alike, none could have escaped some knowledge of the more or less incriminating evidence against the guardsmen now directly charged with participation in the raid."

The guardhouse, situated east of the center of the parade, had a west-front entrance, with rooms for the noncommissioned officers to the right and left of the entrance, a general bunk room for the privates, a rear door leading into a sally port which crossed the building entirely from north to south, open at each end, and separating the front portion from the prison cells in the rear. This rear door of the front portion furnished an easy and safe exit and entrance for the conspirators without passing the sentinel in front. The latrine was at the rear of the building, separate therefrom, and the men customarily went out the rear door and through the sally port to reach it. An absence of ten or fifteen minutes would not attract especial attention."

There was a bright light from a lamp in the guardroom, according to the testimony of Pvt. Joseph Rogers, who claims to have been reading a novel when the firing began. His original statement was that he was asleep on his bunk when the firing began and that he was awakened by Sergeant Reid. His various statements are confused and contradictory—he is evidently lying—but as to there being a light in the guardhouse, there has been no denial. Rogers had been court-martialed five times. The existence of the light is also proved by the statement of Private Johnson."

Attention is directed to the singular fact that no statement under oath was taken from Sergt. J. R. Reid, though a vitally important witness. On page 75, Senate Document No. 402, appears a brief summary of his statement (not under oath) to Maj. A. P. Blockson, to the effect that he did not have the call to arms sounded until the shots came so fast that he thought the post was attacked. He stated also that he formed the guard before having the call sounded."

From this point Reid disappears as a witness. He was serving his fourth enlistment. He was discharged without honor November 16, 1906, with the rest of the battalion. His testimony was not taken at any of the subsequent courts-martial and investigations. He simply disappeared from view. Efforts to locate him have been unsuccessful. He is constantly on the move, and acts like a fugitive from justice. We have followed him into seven States, and spent more time and money in the search than on any other man. For some months shortly after his discharge he was traveling with a negro minstrel troupe through the South in company with John Holloman."

Boyd Conyers declared that Reid was informed that they were going to shoot up the town that night. Reid is reported to have said:

"Boys, if you are not satisfied, you will have to go and get satisfied."

And later, when Reid posted the guard:

"Boys, don't you go down there and let the 'crackers' get the best of you."

Reid seems to have understood that the raid was to be started by these men while on sentry duty and not while on relief, for Conyers declares that, after he (Conyers) returned and threw himself, out of breath, on his bunk, Reid came in and dragged him out declaring, with an oath, that he would have to stand for it or be court-martialed.

Conyers further declares that when John Holloman brought around the extra cartridges before inspection the next morning, to avoid detection, Reid attended to their distribution.

It is obvious that if Reid intended to protect the raiders he would post them away from the front of the guardhouse, where they could recover breath and clean their guns without being under observation. The printed testimony bears this out.

Senate Document No. 402, page 156: Boyd Conyers testifies that he was posted in the rear of the guardhouse after the guard was formed. Does not remember who or how many were in line when the guard was formed.

Senate investigation, page 706, Conyers says he and Lawrence Daniels were posted at the rear of the guardhouse, and that he lay down on the ground to avoid the bullets, though he doesn't claim to have heard any coming that way; had been off post about half an hour. Daniels testified that he was posted at the guardhouse, but does not say whether front or rear.

Senate Document 402, page 152, Pvt. R. L. Collier, of Company C, testified that he had just come off post, and was in the closet when the firing began. (S. I., pp. 1260-1263.) His statement is confused as to when he came off post or how long he was at the closet, or who was in the guardhouse. He was out of sight for an indefinite period, and was likewise posted at the rear of the guardhouse. He testifies that Sergeant Reid, in calling the roll, called up to No. 13 instead of calling by fours. No one else supports this assertion, and it is highly improbable that he was in line when the first call was made. He could not tell who was in the guardhouse.

Senate Document 402, page 158, Pvt. Carolina de Saussure was sent after the alarm and guard call with Corporal Wheeler and Privates Mitchell and Battle toward quarters, and he was later stationed over near the officers' quarters, where he had ample opportunity to clean his gun. (S. I., p. 676.) De Saussure is very uncertain about whom he saw in the guardhouse. The time that he was sent toward quarters was later than he claimed. He admits that he had his gun and ammunition in bed with him, but says nothing about being in the same bunk with Boyd Conyers. He says there was no rack for guns in the guardhouse.

Conyers declares now that he and De Saussure were in the same bunk and both had their guns in bed and their ammunition belts on, though this important fact was not brought out in his testimony. He said that his gun got "jammed" in Fourteenth street by the Cowan house as he came out of the Cowan alley, and that De Saussure fixed it for him. This corroborates the testimony of Herbert Elkins, clerk in the Leahy Hotel. (See Senate Doc. 402, Part II, p. 51, last paragraph; Penrose court-martial, p. 443; S. I., vol. 3, p. 2313.) Conyers was a recruit and not very familiar with his weapon, while De Saussure was serving his third enlistment.

The published testimony of the noncommissioned officers on post bears evidence that they were embarrassed by conflicting purposes—to satisfy the inquiries being made and yet not betray the guilty men. The guardhouse was well lighted, and its inmates easily to be seen and identified. As stated, there is no testimony from Sergeant Reid, in charge of the guard. Corporal Wheeler, on post, testified (Macklin trial, p. 67) that Sergeant Reid was asleep in the noncommissioned officers' room, that he himself was in the guardhouse awake, but that (S. Doc. No. 402, p. 120) he didn't know who was in the guardroom.

Corporal Franklin testified (S. Doc. 402, p. 122) that he thought all his relief was present, but wasn't certain whether they were present or absent. He had dozed off when the firing began. The relief was formed double rank in front and held for fifteen or twenty minutes, he testifies, before being thrown into skirmish line lying down.

Corporal Burdett testifies (S. Doc. 402, p. 121) that he was asleep, but doesn't remember how many privates were in the guardhouse.

Musician Hoyt Robinson is equally uncommunicative. He was asleep in the entrance to the guardhouse. Was awakened (S. Doc. 402, p. 145; S. I., p. 567) by Sergeant Reid and Corporal Wheeler and told to sound the alarm. Went back into the guardroom before doing so to see the time by the clock; found it was 12 o'clock. Saw Privates Johnson and Battle, but doesn't remember any others. (Johnson was sentinel in front of the guardhouse, post No. 1.)

Privates Lawrence Daniels, Bounslor, Mitchell, and Battle gave very brief testimony at Brownsville and were not examined thereafter. They all stated that they were asleep in the guardhouse, but made no statement as to the other members of the relief.

Pvt. Joseph Rogers first testified that he was asleep (S. Doc. No. 402, p. 130), but at the Macklin trial (Macklin, p. 153) and at the Senate investigation (S. I., pp. 984-985) claims that he was awake, reading a novel; doesn't remember what novel or what it was about; was sent to awake Captain Macklin, but told several conflicting stories of what he did, and is discredited by the officers of the battalion. He didn't know how many men or who were present, but said "they were supposed to be there." He admitted at the Macklin trial that he had been court-martialed at least five times, yet was discharged with "character good" at each of his first two enlistments.

Summarizing the testimony as to the presence of the privates of the relief guard in the guardroom, it is extremely noncommittal and uncertain as to who were there and who were absent when the alarm was sounded. In justice to the commissioned officers of the battalion it should be stated that for weeks they conducted a painstaking, personal, searching investigation and examination of the soldiers in their endeavor to ferret out the guilty parties, but the seal of secrecy had been put on the mouths of the men. The few soldiers who conscientiously tried to aid the officers were called "dog robbers," and made to feel the displeasure of their fellows. Pvt. Elmer Brown, Company B, who slept in the corral the night of the raid, testifies to this.

THE SENTINELS.

Pvt. B. F. Johnson, Company D, on post No. 1, in front of the guardhouse, is personally sufficiently accounted for. He retreated behind a dense cloud of ignorance when interrogated at Brownsville. He didn't know anything; didn't even know who was the corporal of his detail; heard seven shots together, and knew nothing more. Didn't know what corporal posted him; what corporal relieved him, who came in or went out. He was not further examined and was finally discharged under a general court-martial November 22, 1906.

Pvt. Joseph H. Howard, of Company D, on post No. 2, around the barracks, has been thoroughly examined. Following the first shots of the raiders he fired the alarm signal, retreating between B and C barracks, of three shots aimed generally over the officers' quarters, and perhaps thereby explaining the bullets which several witnesses testified to having heard whistling over the post. His several statements differ widely as to the place where the first shots of the raiders were fired from down near the Allison saloon, several hundred yards east of him, to a point near the Cowan alley, and in time from four minutes to two seconds before he called the alarm and fired his rifle. In better position than any other private to see, hear, and know what actually occurred in and near the rear of the barracks, he succeeded in demonstrating how much he could say and how little he could tell in four examinations—at Brownsville, at the Macklin and Penrose courts-martial, and before the Senate committee.

Pvt. Charley Hairston, Company B, on post No. 3, around the officers' quarters, throws considerable light on several mooted questions. At the Macklin trial he stated (pp. 79 and 89) that he had carried out Major Penrose's instructions to have the call to arms sounded, had then listened to the roll call of Company B, and had gone back to his post before Private De Saussure came up and told him that Sergeant Reid wanted him to call Captain Macklin, the officer of the day. This places De Saussure's mission considerably later than his own testimony would indicate and increases sufficiently the margin of time needed for De Saussure to have participated in the raid and returned to the guardhouse.

Hairston further reports hearing two pistol shots (S. I., p. 741) off to the southeast some twenty minutes before the real fusillade. This would cover Howard's confused effort to couple these shots with the firing at the entrance to the Cowan alley and to bring them all with his firing the alarm into the limit (extreme time) of four minutes. Hairston also heard bullets whistling overhead, evidently Howard's three shots, and thought he heard horses galloping, presumably the Mexican scavenger's cart hurriedly driven to a place of safety from the rear of the barracks. Hairston located the general fusillade correctly back of B Company barracks.

Pvt. Alexander Ash, Company D, on post No. 4, was remote from the whole affair—in the far southeastern end of the fort, around the corral. He threw no especial light on the situation. He had the confidence of his commanding officers as a reliable soldier.

BAKE SHOP.

John Brown, the last member of the principal conspirators, was disposed of in three lines in the investigation at Brownsville. He claimed he was asleep in the bake shop. He was not subsequently examined. He was serving his third enlistment. On Boyd Conyers's statement, made at Monroe, Ga., Brown was sought in Atlanta. James Powell, who had claimed to have been a discharged soldier of the Ninth Cavalry and to have been in Brownsville the night of the raid, proved an all-around liar and romancer, who, however, had learned much of the inside of the affair from Brown. He also gave Brown the news that detectives were looking for him.

Brown fled to Philadelphia early last August, where his trail was lost for a time. Finally it was learned that he had skipped to Tampa on a phosphate-rock vessel. From Tampa he doubled back to Jacksonville, where he now rests in fancied security. He had been a sailor before he entered the army.

Pvt. Wesley Mapp, Company D, was the only other occupant of the bake shop. He claims (S. Doc. No. 402, p. 141) that he slept through the whole shooting and did not wake till Sergt. Israel Harris, Company D, came, after it was all over. He was serving his second enlistment, was a frequenter of the Allison saloon, and after his discharge disappeared. He has not been located.

THE RAIDERS.

Boyd Conyers furnished the following list of 7 men, all of B Company, who took part in the raid, besides John Holloman, John Brown, Carolina de Saussure, and himself:

William Anderson.
James Bailey.
Charles E. Cooper.
William Lemons.
Henry Jimerson.
James (Rastus) Johnson.
Henry (Sonny) Jones.
Elmer Brown, Company B, who slept in the corral, furnished the following list of suspects:
James Bailey.
Carolina de Saussure.
C. E. Cooper.
John Holloman.
James (Rastus) Johnson.
Henry Jimerson.
William Lemons.
J. L. Wilson.

He also believed, agreeing with Conyers, that Sergt. George Jackson knew all about it and opened the gun racks for the raiders before the shooting, and again after the guns had been returned to the racks at 2 o'clock in the morning, that they might be cleaned. Boyd Conyers made the same statement as a part of the history of the raid.

The two lists of raiders agree with the addition by Brown of the name of J. L. Wilson, though furnished independently. Wilson's gun was one in which shells picked up in the alley were found to fit.

It is noted that Cooper, Holloman, Lemons, Jimerson, Johnson, and Wilson all belonged to Company B baseball team, and ran together.

Other members of the baseball team were: Corpl. Wade Harris, James Allen, Henry Carmichael, Edward L. Daniels, Henry Jones, George Mitchell, and Isaiah Raynor.

Cooper was the coach and Jimerson and Lemons substitute players. Conyers's list is 4 short of the 15 raiders whom reliable witnesses counted in the alley.

George Mitchell was a bad egg; was given six months at Fort Reno for desertion.

Isaiah Raynor slept in the kitchen on the ground floor, and gave confused testimony as to how he got upstairs. He testified that his own gun was in the fourth section rack, but he got S. R. Hopkins's gun out of the third section rack (S. I., p. 1754). This is in line with the testimony of James H. Ballard, clerk of Company B, that the men got guns indiscriminately from the first rack they could get to. Raynor also said that "Sergeant Allison" told him to take a gun from the third section. Allison was the ex-soldier who ran the Holloman saloon.

Allison's testimony was never taken. If Raynor's reference is not a mistake, it should be inquired into as to what Allison was doing in the barracks.

Raynor says he got his own gun for inspection the next morning and Lieutenant Lawrason stood him back because it was foul. He slept in the northeast corner of the ground floor of the barracks, the corner nearest the fort wall and the gate, yet would only admit that he heard the shooting in "the back part of the town, in the rear of B Company, going down the street." (S. I., p. 1760.) Raynor's testimony was not taken at Brownsville.

The baseball crowd tried to protect the guilty men by deliberate lying. For instance, Corpl. Wade Harris testified (S. Doc. No. 402, p. 121) that the firing had ceased when Sergeant Jackson was trying to unlock the second section rack. This is manifestly false, for those of the second section who were not on the raid were pouring downstairs with their guns while the firing was still going on.

Before proceeding to examine the testimony relative to the raiders, the testimony of First Sergt. Mingo Sanders was taken by Lieutenant-Colonel Lovering, at Brownsville, September 25, 1906, nearly six weeks after the raid, should be considered. Sanders lived in married quarters, east of the guardhouse. He was awakened by the shooting; dressed, and hastened to Company B barracks, arriving there after Lieutenant Lawrason, who testifies that he got there about five or six minutes after the shooting began and that he heard no shots after he joined his company. (Macklin trial, p. 31.) The last shots fired by the raiders were at the Tillman saloon, and it took them, perhaps, at the most a minute to run back to the fort and another minute to fall in.

At least eight minutes elapsed from the first fusillade to the time Mingo Sanders reached the front of B barracks. The distance from the Tillman saloon to the front of B barracks was 300 yards. The married quarters were distant between five and six hundred yards. Sanders is positive that he saw John Holloman before the shooting ceased. (S. Doc. No. 402, p. 118.) But there was desultory firing going on in town from aroused citizens for many minutes after the raid was over. Sanders testifies that the company was practically in line when he got there, which further proves his lateness, as all other testimony shows great confusion and delay in forming the company, men being sent back for guns and ammunition, and at least eight minutes elapsing from the first fusillade till the line was fairly in shape.

Lieutenant Lawrason testifies that it took him about five minutes from the time the shooting began to get to the company and several minutes to form the company; that all the firing took place in about five minutes, and that the farthest firing seemed to be at a distance of not more than 300 or 400 yards. (Macklin trial, p. 32.) He further says (Penrose trial, p. 486) that there was great confusion, that the men straggled in, and that the last man had taken his place five or six minutes after he arrived, about eight minutes after the first call to arms, and about nine minutes after the first shots were fired. The last shots of the raiders might very probably have been fired after B Company began to assemble, but the men were straggling in for at least five minutes.

THE EVIDENCE.

It is circumstantially absolute that if soldiers of B Company fired service rifles from the upper gallery of B barracks, from the ground inside the fort wall, and then crossed the wall to join the raiders, the fact was well known throughout the barracks, and their fellow-soldiers lied to conceal the facts and to protect the raiders. Yet the building up of alibis is extremely slight, and but little testimony was adduced in regard to the presence in the barracks of the members of the raiding party while the shooting was in progress. The witnesses generally deemed it safer to know nothing.

William Anderson, Company B, was one of the three musicians of that company. Henry Jimerson was the second and Henry Odom the third. Anderson and Jimerson are charged with being in the raiding party. Odom sounded the call to arms. (Corpl. Wade Harris, S. Doc. 402, p. 121.) Anderson claims to have been asleep (S. Doc. 402, p. 153), and John B. Anderson, his "bunkie," says that he saw him when he awoke. Very little testimony of identification was brought out, and it would have been of very doubtful value at best, if for no other reason than that the barracks were in total darkness. Sergeant Jackson claims to have unlocked the racks by aid of a tallow candle. Jimerson testified that he was asleep. (S. Doc. 402, p. 149.) Cooper, Johnson, Jones, and Lemons gave identical testimony that they were asleep. This was all before Lieutenant-Colonel Lovering at Brownsville, September 25, 1906. They do not appear again.

Henry Jimerson had a bad reputation as a trouble maker and tough. Henry Jones was a bully and notorious from picking quarrels with recruits.

William Lemons was a tough. He deserted at Fort Reno, was captured and given six months in prison.

Carolina de Saussure was notably a hard case and reckless. He assaulted a member of the band at Niobrara and was given six months in the guardhouse.

James Bailey's case needs special examination. He was supposed to be in the hospital. The hospital was under charge of First Sergt. F. L. Oltmans, Hospital Corps (white), and located about 100 yards south of the guardhouse. Oltmans was in his quarters beyond the hospital. (S. Doc. 402, Part II, p. 128.) He was awakened by the firing, dressed, and went to the hospital. He saw his orderlies, Privates Nolan and Sanborn, and four colored patients. The firing, he says, was over when he got to the porch. He does not state how long it took him to dress and get to the hospital, but does not seem to have hurried.

Orderly William C. Nolan (white) was in bed, in the hospital, got up, lighted the lamp, and then went out on the porch, then went to Sergeant Oltmans's house to call him, then went back to the hospital. (S. Doc. 402, Part II, p. 126.) He says there were three or maybe four patients in the hospital, but identifies none of them.

Orderly Sanborn identifies no patient by name, and merely refers to the records as to how many men were there.

Pvt. John Kirkpatrick, Company C, who was in the hospital, testifies that there was only one other patient, William Harden, of Company B, and an orderly. Harden was a patient there, and was also cooking at the hospital. He makes no reference to Bailey.

So, apart from Bailey's own statement, he is not identified definitely as having been at the hospital at the time of the firing. He could have been absent and returned without attracting attention.

In summary, there is no reliable direct evidence precluding a single one of the suspects from having been on the raid. The circumstantial evidence would admit of every one of the list having been out.

In the annexed material, reports of Captain Baldwin's detectives, fair samples of a much larger list, it will be seen that very different opinions are held by several of the ex-soldiers from the ones appearing in their official testimony. The admissions are somewhat remarkable. Private Howard, Corporal Franklin, Corporal Thornton, and Pvt. Joseph L. Wilson express the opinion that it was done by the soldiers.

Many of the men make statements similar to those of Sergt. George Jackson, Corpl. Anthony Franklin, and Temple Thornton that "their Senator," or their attorney, had told them not to talk. Of course, if they had no guilty knowledge they could tell nothing to harm them.

The circumstances of the firing from B barracks, from the ground inside the wall, and the general comment which ensued among the men, makes absurd any theory that the members of the battalion in barracks B, C, and D could have failed to know that soldiers did the shooting. The general resentment among them at the hostile attitude of the citizens of Brownsville was sufficient to initiate the conspiracy of silence. Added thereto was the fact that a murder was committed, and that the State of Texas was taking a hand in seeking to punish the criminals. The discharge of the whole battalion, salutary and necessary as it was, made a racial issue. Had the battalion been of white soldiers instead of colored, no maudlin sympathy would have been aroused over its discharge without honor, and the whole affair would have blown over in a month.

THE CARTRIDGE SHELLS.

The expert evidence submitted to the Senate committee identifying certain cartridge shells picked up in the Cowen alley after the raid as having been fired from guns issued to members of Company B is conclusive. The sole flaw seemed to be in the identification of one of the guns issued to Private Blaney and supposed to have been locked up in an arm chest in the storeroom of B barracks. The records of gun issues were kept by the quartermaster-sergeant and showed numerous changes and irregularities.

There was no actual inspection of the guns in the arm chest by numbers until long after the raid. There was no absolute testimony from an unprejudiced source as to the Blaney gun being in the arm chest, and it was known and acknowledged that guns were being changed more or less among the men without authority. If the Blaney gun was out, there was ample opportunity to return it without detection. Pvt. Joseph L. Wilson so declared to Captain Baldwin.

The argument advanced in defense of the soldiers, that these shells came from a box of empty shells lying open in the gallery of B barracks, and that they had been taken by townspeople and scattered in the alley to throw suspicion on the soldiers, was buttressed by the further explanation that several of them showed double-firing marks, due to a failure of the first attempt, the firing mechanism being stiffened by the cosine line on the weapons when issued. These shells had come from the target range at Fort Niobrara. This argument is destroyed by two facts now given:

First. The box mentioned contained over a thousand shells, discharged from nearly fifty rifles, thrown in indiscriminately, and roughly shaken in the transportation and numerous handlings from the range at Niobrara to the barracks at Fort Brown, thus being thoroughly mixed. There would be mathematically only one chance in hundreds of millions that out of this box 30 shells selected at random would exhibit the absolute firing marks of only 3 rifles out of nearly 50; therefore a practical impossibility.

Second. There were 6 of the 30 shells showing marks of having been inserted in a rifle twice. No such proportion of misfires—one in five, 20 per cent, was reported from Fort Niobrara—was in evidence on the remainder of the shells, or was claimed by the soldiers to whom the guns identified with the shells were issued.

But the conclusive evidence as to the double markings on these shells and three others referred to in the expert testimony of Lieut. W. J. Hawkins (S. I., p. 1319) can be had from Hon. M. D. Purdy, former Assistant Attorney-General, who gives the information that several of the shells picked up at Brownsville were in his presence inserted in a Springfield rifle and tested by an army officer at Fort Sam Houston to illustrate the working of the guns. This accounts for the double markings. Moreover, in case two attempts were made to fire a cartridge the primer markings of the first and unsuccessful attempt would be completely obliterated by the greater explosive blow of the second and successful attempt.

THE AMMUNITION.

Boyd Conyers furnishes the information that before the battalion left Fort Niobrara rumors were circulated that they would not be welcome at Brownsville; that there would be trouble with the citizens; and the rough element of the battalion determined to prepare for trouble. On the way down boys at the stations would importune the soldiers for cartridges. Some were given, but more were held out, and on inspection at Brownsville the shortage was accredited to their having been given away.

"Lieutenant Lawrason," declares Conyers, "scolded the men and threatened punishment, but he ordered more cartridges issued. Some had been held out at target practice. So there were plenty of cartridges. John Holloman took care of them, and I think he hid them over in the Allison saloon, which he backed. After the raid he brought around a lot to the guardhouse to make up the shortage and Sergeant Reid handed them around."

Lieutenant Lawrason gave an original estimate that from one-fourth to one-third of Company B came down to roll call at the time of the raid without their ammunition. Before the Senate committee he raised his estimate to one-half. This latter estimate coincides closely with the number whom Boyd Conyers states as having come out on the upper gallery of B barracks and blazed away after the signal shots. It is not claimed or charged that the men shot away all their cartridges, but the resulting confusion was evidently a part of the premeditated plan to secure as much delay as possible in calling the roll to let the raiders have time to get back in line. From eight to ten minutes elapsed before the roll call was fairly started, and the raiders were all back.

The entire distance traversed by the raiders from the fort to the Tillman saloon, the farthest point, and return, can be and was covered in less time than six minutes from the firing of the first shot. A fast walk out and a run back will do it in less than three minutes by actual test. The distance is less than one-sixth mile each way. Allow a speed of a mile in twelve minutes out and of a mile in six minutes back and it can be covered in three minutes. Allow a minute for delays in firing and it is all done in four minutes. The raid was carefully planned and well timed.

REVOLVERS.

There is a confusion of testimony as to the use of revolvers by one or more of the raiders. No evidence has been obtained that service revolvers had been surreptitiously taken and used; but it is well known that at Fort Niobrara a search was made and several revolvers collected from members of the battalion. They could have had them, and probably several of them were used. One bullet from a pistol was dug out of a post near the Crixel saloon. Its source was not well established. Testimony as to the sound of pistol shots was, under the circumstances, not conclusive, nor of great importance.

JOHN HOLLOMAN.

John Holloman, the chief conspirator and organizer of the raid, is an interesting character. He was serving his fourth enlistment, and had been previously discharged with "character good," "character excellent," "character very good." His reputation among his fellow-soldiers does not bear out his official character. Said to be the offspring of a small Jewish trader and a mulatto woman in middle Georgia, his position as the battalion shylock is accounted for. He was not only a money lender, charging 20 per cent usury and upward for fractions of a month between pay days, but he was a successful gambler and card sharp.

Half the battalion owed him money. Even the impeccable first sergeant, Mingo Sanders, was in his debt at the time of the raid. He was, moreover, the financial backer and half owner of the Allison saloon. What of the battalion money he didn't get in usury and card playing he received over the bar of his "bodega." Boyd Conyers acted as one of his clerks and runners.

Perhaps the most singular omission in the record of the raid is in his case. John Holloman's testimony was never taken at Brownsville or anywhere else by army officers, government officials, not even by the representatives of the Constitution League. He appeared at neither the Macklin or Penrose courts-martial nor before the Senate committee. After his discharge he disappeared in company with Sergeant Reid, one of his chief aides in the conspiracy. They traveled for some months in a negro minstrel troupe and then separated. Holloman is now in Macon, Ga., where he is known to very few, even among his own color. He keeps very much to himself. He lives with a woman who passes as his wife and runs a small grocery in a negro suburb.

It is worthy of note that John Holloman, at Macon; Boyd Conyers, at Monroe; Carolina de Saussure, at Savannah; R. L. Collier, at Barnesville; and John Brown, at Atlanta, brought five of the principals into close touch. They have kept track of each other ever since they were discharged.

It is further noteworthy that it has been comparatively easy to trace up the location of the former members of Companies C and D and extremely difficult to find men of Company B, especially the suspects.

Gen. GEORGE B. DAVIS,
Judge-Advocate-General,
War Department, Washington, D. C.

HERBERT J. BROWNE.

LOUISVILLE KY., May 6, 1908.

W. G. BALDWIN, Roanoke, Va.:

Arrived here this morning. Have located James Howard at 1015 Thirteenth street, and will try to get board in the neighborhood.

May 8.—Have gotten board two doors from Howard. Have met him and hope to be able to get some information. Have arranged to go out with him either to-night or to-morrow night.

May 10.—Was out with Howard last night. Talked freely over the Brownsville matter, but does not seem to know very much about the shooting. He tells me that he was not a member of Company B, but that he was in Company D, and knew nothing whatever about the shooting. This man is either telling the truth or he is a great deal smarter than I gave him credit for being when I first saw him. I have an engagement to go out with him to-night, and will try to sound him further.

May 11.—I was out with Howard last night and got him full of whisky, and am satisfied now that he knows absolutely nothing about the shooting. He said that the soldiers had been badly treated by the white people in Brownsville, and that he did not blame them for shooting up the town, and that he believed most of the shooting was done by men in Company B, but that he had never been able to get any information from any of the soldiers. He mentioned several little scrapes that he had been in himself, but I am thoroughly convinced that Howard knows, personally, nothing about the shooting.

I will await further orders here.

Respectfully,

GILBERT JONES.

LOUISVILLE, KY., May 9, 1908.

W. G. BALDWIN, Roanoke, Va.:

Arrived here to-day. Located George Jackson at 1202 Walnut street, where he is employed by the street railway company. Have arranged to get board across the street from where Jackson lives, and understand he is fond of baseball and hope to be able to take him out on Saturday next.

May 11.—I met Jackson to-day. Only had a few minutes to talk with him, but will arrange to call at his house to-night.

May 12.—Was with Jackson about twenty minutes last night, and find that he was discharged from Company B and is pretty sore about the way he has been treated by the President. Jackson says that he does not believe that any of the soldiers did the shooting, but that it was done by town people. Have arranged to go out with him day after to-morrow night.

May 15.—I was with Jackson for some time last night and talked very freely over the shooting and the way the soldiers had been treated by the white people at Brownsville. He says he knows absolutely nothing about the matter, but stated that they had been warned by their attorneys and had been expecting some white detectives to call on him at any time to try to pump him. He said he did not intend to talk to anyone about the case, as he knew nothing about it. I feel sure that there is no chance to get anything further out of Jackson.

Respectfully,

C. J. TALLEY.

OKLAHOMA CITY, OKLA., May 11, 1908.

W. G. BALDWIN:

I had some trouble locating J. Reeves, but found him at 225 West Grand avenue, this city. He was employed by the Myle-E Adams Cigar Company. This man is one smart negro.

May 12.—I saw Reeves again to-day and he refuses to talk anything about the case. Said he had told all he knew, and did not know anything in the first place, and could not tell anything if he wanted to. Further stated he was satisfied that I was either working for the Government or for some of the Senators, or connected with some newspaper; that he knew nothing and did not want to be bothered.

Respectfully,

C. MAYFIELD.

EL RENO, OKLA., May 26, 1908.

W. G. BALDWIN, Roanoke, Va.:

Just arrived here and have located Temple Thornton, 718 North Evange street. Had a talk with him and find that he was a member of Company D. He says he was asleep at the time of the shooting and

that he did not believe any of the soldiers in his company knew anything about the shooting; that if it was done by any of the soldiers, it was done by either B or C company. He says he has never been able to tell who really did the shooting; that the majority of the soldiers believe it was done by the town people or the Mexicans.

May 28.—I saw Thornton again last night, but was unable to get anything further out of him. He says that all of the soldiers have been cautioned by friends and their attorneys not to do any talking in regard to the shooting. Am satisfied that this man has nothing to tell.

Very respectfully,

C. J. TALLEY.

ROCK ISLAND, ILL., May 30, 1908.

W. G. BALDWIN, Roanoke, Va.:

I had considerable trouble in locating A. Franklin. Went to Des Moines, Iowa, 318 West Third street, and found that he had moved to Rock Island, where he is now located at 222 Twenty-second street. I lost several days locating him, but finally located him and have had a talk with him. Franklin is a pretty smart negro and will be hard to work. Am now trying to get board in the neighborhood, where I can see him often.

May 23.—I was not able to see Franklin yesterday or the day before. Saw him to-day. Had quite a lot of talk with him and got very chummy. He told me that he was corporal at Brownsville at the time of the trouble, but that he was not on duty when the shooting began; that he was asleep at the guardhouse; said he knew nothing about most of it, but he thought some of the soldiers fired back from the barracks.

May 25.—I had another talk with Franklin to-day and am thoroughly satisfied that he does not know who did the shooting, although he said enough to me to convince me that in his own mind he believed it was done by some of the soldiers. Franklin said he had been warned not to talk by his lawyers and also by his Senator, but would not say who the Senator was.

Respectfully,

C. J. TALLEY.

JOLIET, ILL., June 12, 1908.

W. G. BALDWIN, Roanoke, Va.:

Arrived here day before yesterday and have located Joseph L. Wilson, one of the negro soldiers who was at Brownsville. This negro boards at 129 South Bluff street and works in a barber shop. He is a kind of dude negro and will be pretty hard to get in with.

June 15.—Have been out two or three times with Wilson, but he is not much of a talker and very smart. I think you had better come here and see if you can help me out.

Respectfully,

G. JONES.

STATEMENT OF W. G. BALDWIN, JUNE 19, 1908.

Have just returned from Joliet and Chicago, where I met Joseph L. Wilson, who is one of the smartest and brightest negroes I have seen for some time. I told him that I had been employed by a syndicate of magazines of New York to get the facts of the Brownsville case, as they wanted to write a series of magazine articles. I gave him to understand that we simply wanted to get the facts as to where the shooting occurred and what company did the shooting and that we cared very little about the individuals who did same.

Wilson told me that he believed that the shooting was done by some of the soldiers, but that he could not tell to save his life who they were. Said that he believed George Gray and William Haskins would likely know more about the case than most anyone else. I then employed Wilson and sent him to Charleston, W. Va., to get in with Gray. I returned to Roanoke and sent one of our best men to Charleston to also get in with Gray and watch Wilson to see if Wilson was loyal.

W. G. BALDWIN.

PORTSMOUTH, VA., June 21, 1908.

W. G. BALDWIN, Roanoke, Va.:

Have just returned from Atlanta, Ga., where I saw our negro. He states that Conyers told him that sometime ago he received a telegram to go to Washington, where he was present at an investigation, and that he did not tell them anything. He stated that he was in the crowd that did the shooting; that the corporal of the guard on duty that night was fully aware as to the situation, and knew every man who went out of the barracks.

Respectfully,

A. H. BALDWIN.

ATLANTA, GA., July 3, 1908.

W. G. BALDWIN, Roanoke, Va.:

I met our man here to-day and he tells me that Conyers made the following statement to him:

That he was a member of Company B and on night of shooting was on duty as outer guard. He states that Conyers told him that Holloman, a negro named Brown, and another negro whose name he could not remember did the shooting. Stated that he hid in the guardhouse after the shooting; just before roll call Sergeant Reid gave him some cartridges to replace those used, so that he would not be caught if an inspection was ordered. Conyers stated that Holloman lived in Macon and Brown lived in Atlanta. I believe this information is correct, as I never told our negro anything about the shooting, the name of the company, or the people who were suspected. Our man claims that a negro named Parker, who lived in Charleston, S. C., was present when Conyers made above statement.

A. H. BALDWIN.

UNITED STATES SENATE,

COMMITTEE ON PACIFIC ISLANDS AND PORTO RICO,

Cincinnati, Ohio, August 26, 1908.

Mr. BOYD CONYERS, Monroe, Ga.

DEAR SIR: On my return here I found awaiting me your letter of July 24. I hardly know from what you state just what it is that has transpired, nor do I know just what it is I should do to get the character of information to which you refer. If you will write me again at your convenience, giving me a clearer account, I will be glad to avail myself of it to the extent it may be useful.

I remember you very well as a witness before the committee, and I am sure you did not there testify to anything except only the truth.

Very truly, yours, etc.,

J. B. FORAKER.

ATLANTA, GA., June 27, 1908.

W. G. BALDWIN, Roanoke, Va.:

I located James Powell at 304 Fourth street and was with him several times to-day. He talks very freely, and knows Buddie Conyers,

Holloman, and Brown and several other members of Company B. I have an engagement with him again to-morrow.

June 28.—I was with Powell to-day, and he told me that he was at Brownsville at the time of the shooting and that he met Brown, Holloman, and Conyers at a barroom at 7 o'clock, and that there was some talk of shooting up the town that night—that the colored soldiers had been treated badly by the citizens. Powell bragged considerably about what they did in the way of shooting up the town, but I could not get out of him any of the names except Brown, Holloman, and Conyers. He told me that he had been serving in the army, at San Francisco, and had been discharged, and had only been in Brownsville a few days when the shooting occurred and that he left there soon afterwards and had not seen any of the boys since, except Brown, who was living in Atlanta.

Respectfully,

W. LAWSON.

PORTSMOUTH, VA., August 29, 1908.

W. G. BALDWIN, Roanoke, Va.:

I had conversation with James Powell to-day, in which he stated that he served in the Tenth U. S. Cavalry, and in August, 1906, he had received an honorable discharge at San Francisco, and immediately left that point for Brownsville, Tex., arriving there two or three days before the shooting took place. He stated that on the afternoon and evening of the shooting he had been in company with John Brown and a negro named Hallman and Boyd Conyers, all members of the negro regiment then stationed at Brownsville. He stated that they were in a saloon together in the afternoon, and there was some talk of shooting up the town that night.

He claims he left Conyers between 6 and 8 o'clock that evening and did not see him again that night. He claims that he was at a boarding house at the time of the shooting, but immediately after the shooting he rushed over to the barracks, arriving there about the time they finished the roll call. He saw Holloman and Brown, but could not find Conyers, and while he stayed at the barracks about an hour, he never did see Conyers. This man claims that he had no hand in the shooting and was not with the party that did it.

A. H. BALDWIN.

STATEMENT OF W. G. BALDWIN.

ATLANTA, GA., September 11, 1908.

I went to Atlanta and found James Powell, whose home is 305 Fort street, and who works for Dr. William Crenshaw at a double cottage in Atlanta. I told this negro that I represented a magazine of New York, and that we were anxious to get the facts of the Brownsville shooting. Before calling on Powell I sent George W. Gray, who was in Company C, and whose parents live in Roanoke, and I believe is one of the most reliable negroes I know in this country, to see Powell and find out what he had told Lawson and others. After a short interview Gray came back to the hotel and stated that Powell was lying; that he had tripped him up in a number of his statements; and that he was satisfied that he had never been in Brownsville or knew anything about the case.

My calling on Powell a few minutes afterwards evidently excited him, and when I began to ask him about the Brownsville case he told me that he knew absolutely nothing about it and that he was not at Brownsville, but had formerly belonged to the Tenth Cavalry and had been discharged at San Francisco about six years ago. I then confronted him with the letter he had written Boyd Conyers on August 14 and asked him what he meant by this. His explanation was very unsatisfactory, and he admitted to the authorship of the letter, but said that he had formerly known Conyers was the reason for his reply to Conyers's letter written to him about August 10. He denied knowing James Brown, a member of Company B, although he and James Brown left Atlanta for Philadelphia on the same train about three weeks ago. Brown is still in Philadelphia.

I called on Doctor Crenshaw, who told me that he knew that this negro, James Powell, had not been out of Atlanta for three years, except on this trip to Philadelphia.

W. G. BALDWIN.

P. S.—It subsequently developed that Powell was for a short time in a volunteer regiment. He was never in Brownsville, but had gotten his information from John Brown, one of the raiders.

ATLANTA, GA., 304 FORT STREET,
August 13, 1908.

DEAR FRIEND:

I received your letter today and was truly glad to hear from you. It found me well and truly hope when these few lines reach you it will find you the same. I was just thanking about you when I got your letter. John Brown went to Philadelphia a bought three weeks ago. I have heard of any rest of the boys except John Jones he was throw beare and went to Chicago. I will meet the lawyer when he come. You ask me about the chracker. I haven had the opportunity to meet that Entertainment. I have three good guns and if eny thaing should start I will be with them. When are you coming to Atlanta Buddie I will take you for my Edader because I dont no wheare eny rest of the boys.

You must excuse bad writing write soon and let me hear from you from your friend

JAMES POWELS

MACON, GA., September 3, 1908.

W. G. BALDWIN:

I arrived here to-day and have located Holloman. He is in business here and I will try and get something out of him as early as practicable.

September 4.—I have been unable to get anything out of Holloman and he is evidently on his guard.

September 8.—I have now been here a week and find it is impossible to get anything out of Holloman. I will meet you in Atlanta on the 10th.

Respectfully,

W. LAWSON.

Mr. FORAKER. Mr. President, the papers and reports that have just been read show conclusively, I think, the propriety and the wisdom of our adopting a provision such as that embodied in the amendment which I offered this morning. At a later time I will discuss that at more length.

I wish now to address myself to these affidavits and to some of the statements made in them. And, first, let me say I had

no knowledge of these when I prepared the amendment I offered this morning. I prepared the amendment a week ago and showed it to some of my colleagues on the Republican side, and perhaps to some on the other side of the Chamber. I am not sure about that. And I did it solely by reason of the prompting given to me by the correspondence from which I read briefly this morning, for it seemed to me, Mr. President, that it was one of the worst features of this whole unfortunate business that these men who have appeared and testified and who have been examined and cross-examined should now be pursued in this kind of way by detectives proceeding in the manner described in the letter from which I have read.

I do not pretend to know what are the facts as to how these detectives proceeded; but that detectives were employed, that they did represent the Government, that they were under the direction of the War Department are facts established by the affidavits and the reports that have just been read and by the President's message. In that particular the soldier from whose letter I read is entirely corroborated.

I have a very distinct recollection of Boyd Conyers. I think, perhaps, every other member of the Military Affairs Committee who was present when he testified will remember him. I have no recollection of ever seeing him except only while he was on the witness stand. I have just now turned to the record, and I see that I presided on that occasion and administered the oath to him. But I remember him without being refreshed by the record. It is from his letter that I read a moment ago. I had prepared that extract before I knew any message was coming. I know nothing about Conyers except only as he appeared on the witness stand. He impressed me as an intelligent and absolutely truthful witness. I believe he testified to the exact truth, so far as he knew it, in answer both to the examination and the cross-examination to which he was subjected.

He went his way when he was dismissed, and I never saw him again and never heard of him again until the following letter was received at my office in Cincinnati during my absence on a summer vacation. It is dated "Monroe, Ga., July 24, 1908." Now that this message from the President and this report from the Secretary of War and these affidavits from these detectives and this argument based on a review of the testimony by one of these detectives who was employed to represent the Government have been read, I want the Senate to indulge me until I can read this poor, helpless man's correspondence with me. You were told there—and I wish the Clerk would turn and see at what point it was in the investigation of this soldier at Monroe, Ga., that it is stated that my letter which Boyd Conyers received had a bad effect upon him in making him stubborn and obstinate, and that it made it impossible for them to get the truth. [A pause.] Meantime, while the Clerk is looking that up, I will read this letter:

Monroe, Ga., July 24, 1908—

I had never heard from him from the moment he left the witness stand until this letter came, as I say, in my absence—

MONROE, GA., July 24, 1908.

Mr. FORAKER.

DEAR SIR: As you have been a great friend of the discharged soldiers of Brownsville, Tex., I thought I would write you and explain a matter to you concerning a negro detective that has been hanging around for some time.

Mr. FORAKER, I have been away with Captain Mobley and the soldiers for ten days, waiting on them. They have been camping at Chickamauga Park, and when I returned home I learned the negro was here to pick me about the Brownsville affair, and as soon as I heard it I had the high sheriff to arrest him—

Now that, according to his statement, is what this criminal, who was engaged in the shooting, did. It does not look to me like the work of a guilty man—

I had the high sheriff to arrest him and investigate the matter, and as I pushed him close and he didn't have time to have a private conversation with me, he told the sheriff lies, and goes on to say that I have been drunk with him since he has been here, but I can prove that I have not by the highest authorities of Monroe; that I don't drink enough whiskey to get intoxicated.

The way the news got out that he was here for that business is there was another negro that roomed with him, and he had to get him to read his letters and write them, and this negro told what he was up to—

I here call attention to the fact that this negro Lawson, who makes such a smooth and high sounding, logical and comprehensive affidavit, signed it by his mark, according to the reading at the desk.

Oh, Mr. President, there has been a good deal connected with this matter which has caused thoughtful men to wish it had not happened, and I am of the opinion—and I do not hesitate to express it here—that when this particular matter has been probed to the bottom all honest men will be ashamed of it—

I have been receiving letters from Roanoke, Va.—

Where are they? They are not in this report—

I have been receiving letters from Roanoke, Va. In the first one, the man told me he would give me a position at \$60 to \$75 per month,

and I answered the letter and told him I couldn't accept the position then, as my wife was sick and I couldn't leave her. In the next one he said he wanted me to serve in Cuba. I didn't answer it, and in the last one he told me if I would accept the position to let him know and he would send me a ticket to come; he wanted me by the 15th. I asked him in each letter what kind of work he wanted me to do, but he never would tell. So I learned this negro is here working for him. The man I have been getting the letters from goes in the name of Wallace L. Gray—

He was commented upon in one of these affidavits. I will not stop now to do more than to call attention to that fact—

but that is not his real name. However, he receives his mail in that name, and when we found that was not the right name the papers the negro had were searched this morning and found out he only receives his mail in that name.

Mr. FORAKER, I do hope this letter will be some help to you in your case. You have been a great friend to us, and I am sure I appreciate your kindness toward us and thank you very much; and I also ask you for a little of your help in this case, as the negro states that he will have a man here for me in a few days, and I feel that I am worthy of your help, as I am from a good family and the best and highest white people of Monroe, Ga., are my friends. I have had some of the best men to tell me to-night if you need their assistance in this case they are willing and ready to help you do anything for me.

Mr. FORAKER, I am writing this letter because Capt. A. B. Mobly had me to write you—

Captain Mobly is captain of a local national guard company there—

to introduce you to him through this letter. He is one of the most popular men of Monroe, Ga., and the cashier of the Farmers' Bank of this place.

Mr. FORAKER, I want to tell you from my heart the statement I made in Washington is the truth, so help me God, and I have no changes to make in it whatever, and I am just as innocent of taking any part in that trouble that night as God is on high; and the fact is I don't know any more than I have told you about it—

He evidently means told the committee, for he never told me anything except in the committee—

I am waiting for a reply at once from you, and I would like to have all the advice you can give me.

Very respectfully,

BOYD CONYERS,
Monroe, Ga.

Now, this is the answer that was sent him:

JULY 30, 1908.

Mr. BOYD CONYERS,
Monroe, Ga.

DEAR SIR: Your registered letter of the 24th of July, addressed to Senator FORAKER at Washington, has been forwarded here. The Senator is away on his summer vacation, from which he does not expect to return until about the 1st of September. I do not know that anything can be done in the meanwhile. What you have written will be brought to his attention at the first convenient opportunity, for I know he will be glad to hear from you.

Regretting I can not write you more definitely, I am,

Very truly, yours,

It was signed by one of my clerks.

September 1, 1908, Boyd Conyers wrote again, addressing me as follows:

DEAR SIR: Your letter was received August 27—

I want right here, before I read this letter from him, to have the Secretary read the letter I wrote him, which they claim made so much trouble.

The VICE-PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

Conyers tried to commit suicide after he found that he had made his statements to a detective, declaring that the other negroes would kill him when it got out. He finally wrote to Senator Foraker and received a reply, a copy of which is annexed. That reply he construed to mean that he should stick to his original story told before the Senate committee at all hazards, and there he stands.

Mr. FORAKER. Will the Secretary kindly read the letter. It says it is attached.

Mr. WARREN. While we are waiting for the Secretary to find the letter, I should like to ask whether there are any papers or exhibits accompanying the message which were not read in full.

Mr. FORAKER. Nothing, as I understood the Secretary. Now let him read the letter.

Mr. WARREN. We want them all, of course.

Mr. FORAKER. We will get them all, of course, now.

The VICE-PRESIDENT. The Secretary will read as requested.

The Secretary read as follows:

UNITED STATES SENATE,
COMMITTEE ON PACIFIC ISLANDS AND PORTO RICO,
Cincinnati, Ohio, August 26, 1908.

Mr. BOYD CONYERS,
Monroe, Ga.

DEAR SIR: On my return here I found awaiting me your letter of July 24. I hardly know from what you state just what it is that has transpired, nor do I know just what it is I should do to get the character of information to which you refer. If you will write me again at your convenience, giving me a clearer account, I will be glad to avail myself of it to the extent it may be useful.

I remember you very well as a witness before the committee, and I am sure you did not there testify to anything except only the truth.

Very truly, yours, etc.,

J. B. FORAKER.

Mr. FORAKER. I am still of that opinion. In response to that, he wrote September 1 as follows:

MONROE, GA., September 1, 1908.

Mr. J. B. FORAKER, Cincinnati, Ohio.

DEAR SIR: Your letter was received August 27—

The letter that has just been read—

and was glad to hear from you.

Mr. FORAKER, from what I can learn the negro was working under a detective of Roanoke, Va., seeking and trying to find the guilty party that taken part in the Brownsville affray, and he was here five or six weeks and didn't even have any talk with me.

On my return home from Chickamauga I learned he was here to see what he could pick out of me about the Brownsville affray, and as soon as I heard it I decided I would investigate the matter; had him arrested, and he showed me he was here for that purpose. I haven't been bother with him since. As soon as he was turned loose he went off on the first train that left out, and the man he said was coming for me has never come.

The day after the negro left some one called up the high sheriff and asked him what had become of his detective; said he had run him out of town. The sheriff, Mr. E. C. Arnold, said he hadn't run him anywhere; said he must have got scared and left.

Why I wrote you at the time, my family was worrying; they didn't know what the negro would go back and tell. My wife had just gotten out of the bed from a long spell of sickness. I was very weak; and that made me worry; but so far as the Brownsville affair, that didn't worry me, because I knew I was innocent of that; I felt if I would write you and hear from you my people would be better satisfied, because they knew you were our friend and would do all you could for me.

If anything else happens concerning the matter I will let you know at once.

Mr. FORAKER, this is about as plain as I can explain this matter about the detective.

I hope this will find you well and enjoying a good life.

I will close. Hope to hear from you again, because I am always glad to hear from you.

Very respectfully, yours,

BOYD CONYERS.

I did not answer that letter, it seems. It came September 1. I did not hear from him again until October 8. This is a little tedious, but I think it is due to this soldier and due to the truth and due to common decency that this whole story should be told.

MONROE, GA., October 8, 1908.

Mr. J. B. FORAKER.

DEAR SIR: I have been waiting for an answer to the last letter I wrote you—

That was September 1—

but haven't received one; that's why I haven't written to you sooner. I was waiting for a reply from you.

Mr. FORAKER, I have found out Mr. Wallace L. Gray. He has been here himself. He is the captain of the Baldwin Detective Company. His real name is Mr. G. W. Baldwin, of Roanoke, Va., and arrived here on the 5.30 p. m. train, September 9, and asked for me, who was easy found. I goes up to the sheriff's office that night and talked with him in the presence of the sheriff. The first question he asked me was I in Brownsville, Tex., Monday night, August 13, 1906. I told him I was, and he asked me what had taken place there. I told him shooting occurred that night, between 11 and 12 o'clock, I suppose. Then he said, "Who did the shooting?" I told him I did not know. He asked me where was I at when the shooting taken place. I told him: "On guard and don't know who did the shooting, sir; I wasn't on post. I was asleep when the shooting occurred, but was quickly awakened by the alarm of Private Howard's gun and also the voices in the guardhouse hollering, 'Outside, guards; get your guns.'" Then Mr. Baldwin said: "That tale is all right."

Now, this was in the presence of the sheriff, a white man, who does not appear in the record as brought before the Senate this morning, who heard what was said, as I understand it—

but I want to ask you a question, Do you know an ex-soldier by the name of Powell? No, sir; I do not know him. He says he knows you—

That is Powell; they have it there—

and says he heard you, John Brown, John Hollomon, and ex-soldier Allison, who ran the saloon, make a plot that day before the shooting had taken place to shoot up the town that night, and I told Mr. Baldwin that couldn't be true because I was on guard and wasn't allowed to speak to anybody, let alone being in Allison's saloon that day. That morning we were on practice march—

The testimony shows that they did not return from that practice march until almost noon. This man was immediately put on guard duty, and while on guard duty, he was not on post at the time, the firing occurred, but he was asleep in the guardhouse and was awakened. That is testified to by as respectable witnesses as can be found in the whole record, absolutely truthful men; and, let it be remembered, the character of these men is testified to as to truth and veracity, and in all other respects by all the officers of the battalion—

to shoot up the town that night. I told Mr. Baldwin that couldn't be true, because I was on guard and wasn't allowed to speak to anybody, let alone being in Allison's saloon that day. That morning we were on practice march and I had to go on guard as soon as we returned—

They marched out in the country 6 miles and back again—

He said that part is alright, too, but don't you know that men of B Company did that shooting that night. No, sir; I do not know and furthermore I don't believe the soldiers did it; he said oh! there aint no story about that; we know they did it and know the most of them

that did it; I said I am glad you all have been able to find the guilty party; he said now what about the negro Lawson—

That is the detective who makes his mark to a long statement which would do credit to an ex-newspaper man—

I sent down here; what did you tell him?" I said, "Sir, I didn't even have any private talk with Lawson at all." And he said, "Why, Lawson said you did, and taken a drink with him." And I said, "I can prove I didn't talk with him while he was here, and, furthermore, Mr. Baldwin, if you take his word, he will have to prove by good authorities that he did talk with me, for I am just as reliable as Lawson, and if you trace our character I am more reliable than he is." Then he said, "I learn before I came here you are a straight and reliable man, and also since I came to Monroe." Then Mr. Baldwin volunteered and told me he did not know anything about this Lawson; said his brother sent him to him, and he just taken him and sent him out, and said he had caught him in several lies since he has been out. By the way, just a few days before he came here he sent one of the boys here whom I soldered with—he is one of C Company; his name is George Gray, private; was discharged when I was; he arrived here on the 11.30 train a. m. I forget the date now, but can get it if we need it. George asked for me when he came, and a little boy showed him where I live. He came to my home, and I prepared dinner for him and treated him nice, and also taken near a half day off from work to carry him around and introduce him to my friends and people and good white friends.

I guess he saw that I was doing so well he wouldn't have anything to say about the Brownsville affair, which he didn't say anything about it. Mr. Baldwin talked on a while, and asked me if I had seen any of the discharged soldiers since I returned from Washington. I said I have only seen one, and that was George Gray, and he said he was here looking for his cousin who was here nursing for some white people. Then Mr. Baldwin, said Boyd, I sent George here after Lawson came back and made his reports to see if you did tell him anything, and George said you didn't have anything to say about the Brownsville affair; he didn't mention it to you.

Mr. FORAKER, there was another detective here on the 6th of this month, I will write you another letter soon and tell you about him; his name is Mr. S. J. Brown—

I suppose we ought to read it H. J. Brown, in view of the affidavit—

He registered from Atlanta, Ga.

I hope this letter will be some help to you in the case.

I will close for to-night. Hope to receive an early reply from you.

Respectfully, yours,

BOYD CONYERS.

That was on the 12th. I answered that as follows—be it remembered, the witness says that my letters caused this man to be more difficult to get confessions from; I take great pleasure in submitting my letters:

CINCINNATI, OHIO, October 12, 1908.

Mr. BOYD CONYERS, Monroe, Ga.

DEAR SIR: I have your letter of October 8, and have read with much interest and appreciation the account of your interviews with the different men who have called upon you. If you will kindly keep me informed, I will be still further obliged.

Very truly, yours, etc.,

J. B. FORAKER.

On October 21 I next heard from him. He wrote on that day as follows:

MONROE, GA., October 21, 1908.

Mr. FORAKER.

DEAR SIR: Yours of the 12th of October—

The one I have just read—

MONROE, GA., October 21, 1908.

Mr. FORAKER.

DEAR SIR: Yours of the 12th of October was received and read with pleasure and care.

Well, Mr. FORAKER, I will finish my story about the detectives. I am glad I didn't tell you about Mr. Brown at first, because he has made another trip here; his first visit was the 6th of October and the last on the 11th.

Mr. Brown walks in and asks, "Is this Boyd Conyers?" I told him it was, and he said, "You are the man I am here after." I said, "Well, I am here; guess you can get me; I am not gone anywhere;" and he said, "No, I am not after you this time. I want to talk with you and see if you will tell me the same story you have told others about this Brownsville affair." I said, "Sir, I haven't told anybody more than I told in Washington, and that was nothing but the truth." Then he said, "Now, Boyd, I remember that. I am not here to do you any harm. I am here to protect you, and don't you be afraid to tell me the whole story about Brownsville; let me hear from you."

The VICE-PRESIDENT. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated by the Secretary.

The SECRETARY. A joint resolution (S. R. 74) suspending the commodity clause of the present interstate commerce law.

Mr. KEAN. As the Senator from West Virginia [Mr. ECKINS], the chairman of the Committee on Interstate Commerce, is absent, I ask that the unfinished business be temporarily laid aside.

The VICE-PRESIDENT. The Senator from New Jersey asks that the unfinished business be temporarily laid aside. Without objection, it is so ordered.

Mr. FORAKER (reading):

I said, "Mr. Brown, I have told you all I know and that I stated in Washington." He said, "Well, I know you haven't, for you told two men here in this town that you help to do the shooting."

This is Mr. Brown testifying. He appears upon the scene—I said, "I don't care if one of the white preachers of Monroe told you." I told him that he told a lie. He said, "No; it wasn't any preacher that told me; it was Lawson (the negro detective) said he had witness to prove it," and I said, "Please tell me the witness that Lawson has

to prove." "I talked with him," he said, "I don't know the negro, but he said his name is Parker." I said, "Well, if that is his name he is the one that gave Lawson's secret away; hadn't been for him Lawson would've been here now trying to get a chance to talk with me." I said, "Mr. Brown, Lawson had nothing to do but come up to me and say, 'I want to talk with you' and I would have talked with him, because I am not afraid to talk to no man." He said, "Well, Boyd, we sent Lawson here especially to see you about this Brownsville affair, and he sent us facts that no other man couldn't have found out about you, and it was not any make-up; he got it from you because he couldn't have got it from anybody else but you." I said, "As many papers that are printed in this world nobody had nothing to do but pick up one and read about this Brownsville affair and make up anything they want to about it." Then he said, "Lawson can't neither read or write." Then I said, "There you are. Mr. Brown, it's true, then, that Lawson had to get some one to do his reading and writing. Is that a fact?" and he said, "Yes; I guess he did," and I said, "It happened that he found a man that couldn't keep a secret and that the way it leaked out he had Parker doing his reading and writing, and he told his business before he was ready for it to be told." Mr. Brown said, "That's all right; Lawson is a truthful negro; he has been with the Baldwin Detective Company for seventeen years." Then I said, "Mr. Brown, wait just one minute; let me speak one word to you." I said, "Do you know Mr. G. W. Baldwin?" He said, "Yes; I know him." I said, "Is he a truthful man?" He said, "Yes; sure he is a truthful man." I said, "He stated before me and Mr. Arnold when he was here—

Mr. Arnold is the sheriff, you will remember—

that Lawson hadn't been with him more than two or three weeks, and he didn't know anything about him more than his brother told him. He was sent to him by his brother and he had caught him in several lies." Mr. Brown said: "We won't go any further with that. I want to ask you a few more questions about another party." He said: "Do you know an ex-soldier Powell?"—

I am now commencing to read the extract which I quoted in my opening remarks—

I said: "No, sir; I don't know him."

He said: "Well, he knows you; and said you, John Holloman and John Brown said you all were going to shoot up that town." I said: "I haven't seen that negro; haven't told him anything; furthermore, I was on guard duty that night, and couldn't have gotten off if I wanted to." He said: "Remember you are not the only soldier talking; we have twenty talking, and they are peaching too; as I said, I will protect you. Tell us the story; don't be afraid; we have almost got it like we want it, and remember the Government never gives a thing up until it is finished."

He said: "We have been able to prove that B Company men did the shooting, and what I want you to tell me is just the men that did the shooting; I know you can if you will; we already know three men that did it, but we want the whole gang. The three are you, John Holloman, and John Brown."

He said, "Now, suppose you dream over it to-night and come in the morning and tell me and Mr. Arnold about it; we will see that nobody don't hurt you if you were in it." And I said, "Mr. Brown, what do you want me to do—tell a lie? Pick out this man and that man and say they were in it? It is impossible for me to do that; furthermore, Mr. Brown, if you all have proven that the shooting came from B Company barracks, it is just as impossible for me to know who the men are as it is for you, because I was on guard and you were at home." He said, "Well, we will go in for to-night; come back in the morning and tell me what you have thought about it."

Mr. FORAKER, he told me not to tell anybody he was in town; both of them told me that; we all parted and went home for the night.

The next morning I went to the Walton Hotel to see him; he told me he was fixing to go off on the morning train and asked would I go to the depot with him. I told him I would.

He asked what had I decided about the matter; had I decided to explain the story to him? I told him I had told him all I knew about it, unless I tell him a lie, and I would die before I would do that. He said: "Now is your chance, Boyd, to tell the story. Well, if you won't tell me anything, I will tell you good-bye, but I will return in a few days."

Now this is all for Mr. Brown's first trip. I will now tell you about his return on Sunday, October 11.

He came on the 11.30 train and sent for me to come up to Mr. Arnold's office at once, which I did about the first thing. He said to me, said he had good news for me, and I asked him what was the news. He said he had been to Atlanta, and had had a close talk with this ex-soldier Powell; said Powell told him faithful that he was mistaken in my name; said he didn't know Conyers; said the man he had reference to was named Collier instead of Conyers, a fellow in C Company—

You will remember that the Secretary of War, or the President, or somebody else, in his comments that were read to us this morning, said they had some indication that Collier was liable as one of the participants, but it was not satisfactorily shown—

and I told Mr. Brown I knew Powell lied if he said he knew me. Then Mr. Brown said, "Mr. Arnold, what did Conyers say when he came to have Lawson arrested?" Mr. Arnold said, "Boyd said he learned there was a negro here, claiming he was a detective, hunting him about the Brownsville affair, and the negro said there would be a white man here after him in a few days." Then Mr. Brown asked Mr. Arnold, "Did Boyd deny what Lawson said he told him?" Mr. Arnold said, "Sure he did; he told Lawson he told a darn lie." Mr. Brown then said, "What about the excursion trips?"

You will remember that in one of the affidavits sent us by the President it is set out that on an excursion, traveling on the train back and forth, this negro Lawson talked with Conyers. I want Senators to observe that there seems to be a white man—the sheriff of that county—present at nearly all these conversations. If the writer of this letter is telling an untruth about it, it will be very easy to disclose that fact; but if the writer of this letter be telling the truth, as I believe he is, it will be very easy to establish something else that will give some people more trouble than they expected to give this man.

Lawson said: You went on an excursion to Gainesville, Ga., with him and told him you help do the shooting. I told him I could prove I hadn't been on an excursion this, neither last year. He asked me this when he was here the first time. I forgot to state it before, and when he was here on the 11th, Mr. Arnold told him he had found out I hadn't been on any excursion at all. Then Mr. Brown said: "Boy, you are a pretty hard case; we can't get on your track much."

He said: "I want to ask you a few more questions. I want to know, and I want you to tell the truth. Tell me who talked with you in Washington before you went on the stand." I told him no one. "Now," he said, "Isn't it true that Mr. FORAKER told you all how to swear before you went in the committee room?" I said: "No, sir. I saw him passing, and some one said 'There goes Senator FORAKER.'" He said: "Who met you at the train when you went to Washington?" I told him no one. Then he wanted to know if I had any letters from Mr. FORAKER. I said: "Sir, I have only one letter from him." Then he asked me if I had it with me. I said: "No, sir; but I can get it as quick as you ever saw anybody get anything if you think it will do you any good." He said: "I will be glad for you to go and get it. I would like to see some of the Senator's writing." I came home and got the letter and showed it to him. He read it and quickly folded it and handed it back to me and said: "There is nothing there to hurt anyone." Then he asked me to give him the name of all the ball players in B Company. He asked me did I have a group of the boys. I told him I did. He told me he would like to see it; for me to go and get it, if it wasn't too much trouble. I told him it wouldn't be any trouble; so I got it and showed it to him. Then he took their names down, right to left, like they were on the picture. Then he began to point out some of the men on the picture to Mr. Arnold—

This sheriff, who was still there—

that he thought was implicated in the matter; then he wanted to know if I had any of the rest of the soldiers' pictures; if so, he wanted to see them. I showed him all I had. He kept trying to persuade me to tell him who did the shooting, which was impossible for me to tell him; he also repeats, "There is a lot of them talking now;" said "John Brown has acknowledged that he was in the shooting." I said, "Mr. Brown, if John has been man enough to tell you he was in the shooting, it looks funny he didn't tell you who else was in it." He said, "That's all right; it's all coming out." Then he began to ask me about my family; said it would be bad for me to have to leave a young family and be turned over to the State of Texas. I told him, "Before I would be willing to swear a lie on anybody I would be willing to go to Texas or anywhere else, because the truth stands in its place." He said, "You know if you go to Texas nobody knows the results you will get there. You may never return here any more." I said, "God's will must be done; if it is His will for me to go, I suffer His will may be done."

Well, Mr. FORAKER, this is all I think he had to say in his talk with me.

Now, what I have stated in each letter you can depend on it to be the truth, so help me God. I also hope these letters will help you some in this case when it comes up again. I saw in to-day's Constitution—

I suppose that is the Atlanta Constitution—

where Oscar Reid, a discharged soldier without honor of the Twenty fifth Infantry, was going to get pay for his lost time he has been out, and I feel that we all are entitled to it.

I will close for to-night. Hope to get an early reply. I received the little pamphlet you sent me; was very glad to get it; sure did enjoy reading it.

Respectfully,

BOYD CONYERS.

That was something connected with the case, I suppose. I do not remember about it.

I next heard from him November 30, and that is the last time I did hear from him. It is a very short letter, and I ask the indulgence of the Senate that I may put it also in the RECORD.

I now want to read my answer to the letter from him which I have just read:

Mr. BOYD CONYERS,

Monroe, Ga.

DEAR SIR: I have your letter of October 21. I thank you for taking the trouble to give me in such detail the account of the interviews and conferences you have had with your visitors. I shall look after them at the proper time.

And that promise will be made good—

Hoping you will continue to keep me advised if there should be any further developments, I remain,

Very truly, yours, etc.,

J. B. FORAKER.

Then I heard from him next on November 30, when he wrote me as follows:

MONROE, GA., November 30, 1908.

Mr. J. B. FORAKER,

Cincinnati, Ohio.

DEAR SIR: I had begun to think I wouldn't have to write you any more about the detectives, but I see I will. One visited me at my home Saturday night, November 28.

He is still trying to find out if the negro Lawson had any private conversation with me; he asked me if Lawson did have a talk with me. I told him, "No, sir." He then asked me were I acquainted with Lonza Henon, of Winder, Ga., the negro that runs the eating department there. I told him, "Yes, sir; I know him." He says, "Does he know you?" I said, "Yes, sir; I suppose he does." "Well, Lonza swears he saw you on the excursion to Gainesville and saw you, Lawson, and Joe Blasingame."

Another one of the gentlemen who figure in that report—talking together going and coming. I have his affidavit in my pocket now, with his name signed to it. I told him I didn't care what he had; I could prove by every person on that train that I didn't go; and I have proved it. The excursion was run on the 15th day of June, and the people he asked that were on the train told him "No; I didn't go; but his negro he had here went. I went by the depot that morning to see if my mother-in-law went off, and was talking to a lot of the boys and girls. I was in my work clothes and had my dinner

with me to go to work. That is what all the people told the detective he asked. Now, Mr. FORAKER, you see by this that my witnesses have condemned both Lawson and Henon, and the white people of this town told me to have a case made against both of them for perjury, and I just told the white people I would just wait a few days on it before I went too far with it. Now, I would like to have your advice about what to do about the matter. I thought it best to ask you. I didn't want to go too far before I notified you, and I learned to-day through some of the people the detective talked with the negro was named Will Lawson. This detective shows his affidavit to Mr. E. C. Arnold, Joe Blasingame, and Lou Henon, the boy that works for Joe Blasingame in a pressing department, and he is also Lonza Henon's brother, from Winder, Ga.

I goes to him in a sly way and asked him did he see the detective; he said "Yes;" and saw the affidavit that his brother signed, but said he didn't believe his brother said it. I asked him in the presence of a reliable colored boy by the name of Joe Smith; he said the man also asked him did he see me on the excursion, and he said "No; he wasn't on it; he was in Elberton, Ga."

The boy then asked me what was the trouble. I told him not anything. I just wanted to get a little business straight. He came to me to-day and wanted to know if there was any way through me that I could help his brother out of it, if there was any trouble for him. I told him I didn't know that there was anything I could do for him, but he had better have his brother come down here and see me at once. He said he would have him here as soon as he could get him. Now, Mr. FORAKER, when he comes I am going to have him sign another affidavit in the presence of the reliable white men; then I think I will have him trapped all right. Now, I want to ask you, if I get him trapped, won't I have the negro Lawson, too; but I will work slow until I hear from you and get your advice. I won't write all that I have to write to-night. The man that was here Saturday night, he is another; Mr. Baldwin, Mr. G. W. Baldwin's brother. I haven't his address.

I will close for to-night, hoping to receive an early reply. I would like to ask you when does Congress go in session for this season; and do you think any of the soldiers will have to be in Washington on this case. Why I asked you this, Mr. Baldwin wanted to know how much expense money I got, and how much they paid me a day, and who sent for me; and I told him D. M. Ransdell, Sergeant-at-Arms United States Senate.

Very truly, yours,

BOYD CONYERS.

That letter reached Cincinnati after I had started to Washington, and on December 2 my clerk answered it as follows:

DECEMBER 2, 1908.

Mr. BOYD CONYERS,

Monroe, Ga.

DEAR SIR: I write, under general instructions, to acknowledge the receipt of your letter of the 30th of November, and to say that Senator Foraker has started for Washington to attend the opening of the session of Congress next Monday, December 7. He expects to return to Ohio within a week or ten days, when your letter will be brought to his attention. I do not feel able to advise you about the matter therein referred to, but I know the Senator will be glad to have you keep him fully informed.

Regretting I can not write you more definitely, I remain,

Very truly, yours, etc.

I never made any answer to him. That is the whole correspondence that has passed between him and me. I submit, Mr. President, that there is nothing in the letter I read that anybody has any right to take any exception to. I submit that this testimony of this poor—I will not say ignorant man, for he is not that—but this ill-informed man, this helpless man, this defenseless man ought to go into this record, and ought to receive that same fair consideration that is to be attached to the statements made by those who were in the employment of the War Department, representing the Government in this species of espionage about which he informs us.

I am not going to argue the merit of his statements as set over against the merit of the statements on the other side, but I shall only call attention to the fact that enough has been shown to make it the imperative duty of the Senate of the United States to adopt either the amendment I have offered or some other amendment similar in character to it, to the end that these men may have a tribunal before which they can go and can be heard.

Mr. President, is there anything more atrocious than the way proceedings have been conducted against these men? This is the sixth time they have been on trial and five times they have been acquitted, in my judgment; and when the investigation of these charges now preferred is completed it will acquit them again, and triumphantly, for I see enough earmarks to justify me in saying that what I have indicated will be the result of such investigation.

Is there anything more atrocious than the conviction of men of crime upon secret ex parte testimony? Is there any occasion for it? What is the necessity for such treatment of these men?

By the testimony of every one of their officers—and no officers in the American Army stand higher than do Major Penrose and his associates of that battalion—these are men of good habits, men of good character, and men of truth and veracity.

They were first found guilty upon the testimony taken by the citizens of Brownsville and Major Blocksom, without having any opportunity to meet their accusers or to cross-examine or to offer testimony in answer.

Mr. CARTER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Montana?

Mr. FORAKER. I do.

Mr. CARTER. Mr. President, I have deferred interrupting the Senator from Ohio, realizing his desire, and very proper desire, to place in the Record at the time the correspondence of the Secretary of War is there placed matter germane, relating to the subject; but I feel constrained, now that that has been done, to remind the Senator that this day has been devoted to a special order, and that the matter to which he is addressing himself will come up in due time as a special order on the 16th instant. I do not wish to rise to a question of order, but merely to remind the Senator that the time during which the special order of his day may be executed is fast passing.

Mr. FORAKER. I beg the Senator's pardon, and at the same time I thank him for the indulgence he has shown me. I am glad he has recognized it was such a case that all the time that has been taken should have been taken to put in the Record the story of this poor, humble, and, as I believe, absolutely truthful man in opposition to what has been fabricated by a lot of hired detectives, of whom I shall have something more to say at another time.

Now, I only want to add one word, if the Senator from Montana will allow me. I have said this was the sixth time they have undertaken to convict these men of the shooting. It may be they did it; I do not know. There has been no testimony yet offered that satisfies me that they did it. When I say "satisfies me," I do not mean there is no testimony tending to show that these men did this shooting—some of them of that battalion—but what I mean is that the testimony to show that they did not do it is, to my mind, overwhelmingly stronger than that which shows that they did it. But some Senators differ from me about that. I was just saying the first testimony was *ex parte*.

We did not have to go outside of this Chamber to dispose of it. A mere analysis of it here in debate prompted the President to send Mr. Purdy to Brownsville, and he convicted them again upon testimony taken in the form of affidavits purely *ex parte*, without their having any chance to be heard.

Then there came the Penrose court-martial, where Major Penrose himself was on trial and the men were not, but where Major Penrose, who was on trial, was acquitted, and the men, who were not on trial, were convicted—convicted until an analysis was made of what was done. Then the claim that they were convicted there appeared so utterly absurd and such an outrage on judicial procedure as to merit only everybody's criticism.

So I might go on. They were convicted again, I was about to say, by the shells and bullets which were subjected to a microscopic inspection. There was conclusive evidence, it was claimed, that these men had done this shooting, and yet, when the testimony was taken and application made of what that showed, the evidence was conclusive just the other way, that they had nothing whatever to do with it, and could not have had.

All that has been gone over. I do not want to go over it, but now, again, after the testimony is all taken, men are hired to pursue these men, to ferret the matter out, if they can, in the way described by this poor, helpless man, by going to him and saying, "This man, that man, and the other man have been making affidavits, and you, too, must make an affidavit; if you will, I will protect you."

Oh, shame upon a Government that will employ all its power, every power that it commands, not for the purpose of the protection of men in their right to be presumed innocent until they are proven guilty, but to prove men, who claim they are innocent, to be guilty of a heinous crime, and to do it behind the door and in the dark.

Mr. President, shooting a man out of the dark and in the back is the most cowardly and indefensible procedure of which I have any conception. But I must not take more time.

I had no idea when I arose to offer my amendment that I would take any time. I did not know then of the President's message. After I reached the Chamber I received a telegram, which is in my desk, stating that a message of this general nature was likely to be sent here this morning. That did not cause me to offer my amendment. I had already brought it here to offer it; in fact, I expected to offer it last week. Neither did it deter me from offering it. And now, Mr. President, let it once and for all be understood that in this whole matter I have no desire and no purpose except only to do my duty as I understand it. I have no embarrassments to work out for anybody as against anybody. I have no feeling of spitefulness or revenge as against anybody in connection with this matter.

All I have known from the beginning has been that here are 167 men, with as good records as any battalion in the American Army, every one of whom says he had nothing whatever to do with it. Until the committee unanimously decided that they

need not go further, every one of them who was called before that committee and there examined and cross-examined in the most rigid way, acquitted himself so completely that no man in that committee presumed to say "There is a man as to whom I have a suspicion of guilt." So completely did they acquit themselves that the President of the United States himself sent us the message to which I referred a moment ago, asking us to authorize him by appropriate legislation to reenlist these men. That is all my bill does. Whether his bill or my bill or some other bill shall be adopted, let us not drift into a controversy over inconsequential matters, but let us once and for all do justice to these men by enacting some kind of a law under which they can be heard in their own defense before an independent and a just tribunal, as against such serious charges as we have listened to here this morning, and against such espionage as we are told by the President's message is to be continued pending our action.

I do not object to any fair method being continued to ascertain the truth as to Boyd Conyers or any other soldier of that battalion who may have been guilty of participating in that affray. Let the truth be established; and if convicted, let him suffer the penalty; but if not, let him go acquit. Let us give to the humblest what we would not hesitate to give to the highest—a fair chance to be heard, to present his own defense and to support his defense with appropriate testimony.

The VICE-PRESIDENT. The message and accompanying papers will lie on the table and be printed.

ADDITIONAL CLERK TO COMMITTEE ON INDIAN AFFAIRS.

Mr. CLAPP submitted the following resolution, which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on Indian Affairs be, and it is hereby, authorized to employ an additional clerk, at an annual salary at the rate of \$1,440 per annum, to be paid from the contingent fund of the Senate until otherwise provided for by law.

INDIAN LANDS IN OKLAHOMA.

Mr. CLAPP submitted the following resolution, which was considered by unanimous consent and agreed to:

Resolved, That the Secretary of the Senate be directed to request the House of Representatives to return to the Senate the bill (H. R. 16743) for the removal of the restrictions on alienation of lands of allottees of the Quapaw Agency, Okla., and the sale of all tribal lands, school, agency, or other buildings on any of the reservations within the jurisdiction of such agency, and for other purposes.

COUNTING OF ELECTORAL VOTES.

Mr. BURROWS submitted the following concurrent resolution, which was referred to the Committee on Privileges and Elections:

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 10th day of February, 1909, at 1 o'clock in the afternoon, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice-President of the United States, and the President of the Senate shall be their presiding officer; that two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed as they are opened by the President of the Senate all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A, and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed sufficient declaration of the persons, if any, elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

IMPROVEMENT OF SIUSLAW RIVER, OREGON.

Mr. FULTON submitted the following concurrent resolution, which was referred to the Committee on Commerce:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, directed to cause such survey and examination to be made at the mouth of the Siuslaw River, in Oregon, as may be necessary in order to determine what project for its improvement can be completed by the expenditure of \$100,000, in addition to a like amount to be provided by the residents of that locality.

CENTENNIAL ANNIVERSARY OF BIRTH OF LINCOLN.

Mr. DICK submitted the following concurrent resolution, which was referred to the Committee on Appropriations:

Whereas the 12th day of February, 1909, is the one hundredth anniversary of the birth of Abraham Lincoln, a towering figure in history and one of the few truly great men the world has produced; and

Whereas his life and fame are the heritage of all nations, uplifting the lowly and humbling the mighty—proclaiming the brotherhood of man—his example a beacon as generations pass that will burn brighter so long as history endures. Of lowly birth and his youth an unceasing struggle, manhood brought him wisdom, destiny gave him leadership in the greatest crisis of our Nation's history, and death placed him among the immortals; not only a grand and great man, but a good man as well, with wisdom and heart to do the right as God gave him to see the right, with malice toward none, with charity for all, giving his life that

government by the people might endure; by his martyrdom unifying a nation for all time—such being the estimate of him by the American people; and

Whereas a free people should honor and revere the memory of their great dead that posterity shall be encouraged to emulate their example, it is fitting that the one hundredth anniversary of Lincoln's birthday be specially observed with appropriate ceremonies, not only by the Congress, but also by all the States and municipalities of the United States and by all organized bodies of citizens and the people generally: Therefore, be it

Resolved by the Senate (the House of Representatives concurring), That said 12th day of February, 1909, be set apart for a joint session of the two Houses of Congress to be assembled to pay tribute to Abraham Lincoln, the great emancipator; to listen to an appropriate address upon the life, character, genius, patriotism, and public services of the statesman who guided safely the ship of state through its greatest peril; and to otherwise commemorate in fitting manner his invaluable service to this Nation.

Resolved, further, That we recommend that the American people at home and abroad; the States and Territories and the District of Columbia; all municipalities and towns; all organized bodies of citizens, church as well as state; all associations, civil, military, patriotic, fraternal, scientific, and social; labor and trade societies; chambers of commerce and boards of trade, and other civic, commercial, and industrial bodies, and all others, set apart the centennial of the birth of Abraham Lincoln to do reverent honor to his memory.

Resolved further, That we recommend that at all places where people gather for public purposes addresses be made in eulogy of Lincoln; that the emancipation proclamation be read, his Gettysburg speech repeated, and that wherever possible a short history of his life, his Gettysburg address, and suitable excerpts from his addresses and correspondence be printed for circulation in pamphlets, magazines, periodicals, and newspapers.

Resolved further, That inasmuch as his triumph over the adverse circumstances of early years should be an incentive to the youth of the land, we recommend that on this day special and appropriate exercises be held in colleges, universities, academies and schools, and all other seats of learning to teach the lesson of the life and achievements of this great exemplar of our American civilization.

Resolved further, That we recommend action looking to the erection in the city of Washington of a monument which shall be worthy his great fame, his service to humanity and to his country, and fittingly commemorate the grandeur of character, the nobility of life, and the epoch-making career of Abraham Lincoln.

HEARINGS BEFORE COMMITTEE ON PACIFIC ISLANDS AND PORTO RICO.

Mr. FORAKER submitted the following resolution, which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on Pacific Islands and Porto Rico be, and it is hereby, authorized to employ a stenographer to report such hearings as may be held by it during the second session of the Sixtieth Congress, the expense thereof to be paid from the contingent fund of the Senate.

HOUSE BILLS REFERRED.

The bill (H. R. 6145) to refund to the Territory of Hawaii the amount expended in maintaining light-house service on its coasts from the time of the organization of the Territory until said light-house service was taken over by the Federal Government was read twice by its title and referred to the Committee on Pacific Islands and Porto Rico.

The following bills were severally read twice by their titles and referred to the Committee on the Judiciary:

H. R. 21051. An act amending the penal laws of the United States; and

H. R. 21736. An act to provide for holding terms of United States courts at Clarksdale, Miss.

H. R. 23464. An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1910, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

CITIZENSHIP OF NAVAL DESERTERS.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 5473) to authorize the Secretary of the Navy in certain cases to mitigate or remit the loss of rights of citizenship imposed by law upon deserters from the naval service.

Mr. PERKINS. I move that the Senate disagree to the amendments of the House of Representatives and request a conference with that body upon the bill and amendments, the conferees on the part of the Senate to be appointed by the Vice-President.

The motion was agreed to; and the Vice-President appointed as the conferees on the part of the Senate Mr. PERKINS, Mr. GALLINGER, and Mr. TILLMAN.

HOLIDAY RECESS.

The VICE-PRESIDENT laid before the Senate the following concurrent resolution of the House of Representatives, which was referred to the Committee on Appropriations:

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Saturday, December 19, they stand adjourned until 12 o'clock meridian Monday, January 4, 1909.

CLAIMS OF ROMAN CATHOLIC CHURCH IN PORTO RICO.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Com-

mittee on Pacific Islands and Porto Rico and ordered to be printed:

THE WHITE HOUSE,
Washington, December 14, 1908.

To the Senate and House of Representatives:

I transmit herewith a report from Mr. Robert Bacon, Assistant Secretary of State, and Maj. Frank McIntyre, U. S. Army, of their mission to Porto Rico, under my oral instructions, to meet with representatives of the insular government of Porto Rico and of the Roman Catholic Church in that island, with a view to reaching some equitable settlement of the questions pending between that church on the one hand and the United States and the people of Porto Rico on the other.

The nature of these questions and the conditions of the controversy at the time of the meeting of the commission at San Juan are fully and clearly stated in the report, as is the basis for an equitable and complete settlement of all the questions in controversy unanimously agreed on by the members of the commission in a memorandum signed on August 12, 1908.

It will be seen that under the terms of this memorandum the United States is to pay to the Roman Catholic Church in Porto Rico the sum of \$120,000 in full settlement of all claims of every nature whatsoever relative to the properties claimed by the church which are now in the possession of the United States and which are defined in the report.

The properties specifically in question form part of the land reserved for military purposes in San Juan and are now occupied by United States troops. I am informed that they are well suited to such purposes, and that to provide for the garrison of San Juan elsewhere would require the expenditure of many times the sum involved in the proposed settlement.

This basis of agreement has received my entire approval, and I trust that the Congress will see the great importance of the matter and will, at its present session, pass such legislation as is necessary to give the basis of the agreement effect on the part of the United States.

The legislative assembly of Porto Rico has already, by a joint resolution approved September 16, 1908, ratified the basis of agreement recommended by the commissioners, in so far as it affects that government, and enacted the necessary legislation to make it effective.

THEODORE ROOSEVELT.

ANNUAL REPORT OF SECRETARY OF AGRICULTURE.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States, which was read and, with the accompanying paper, referred to the Committee on Agriculture and Forestry and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith the Annual Report of the Secretary of Agriculture, covering the operations of the department for the year 1908.

THEODORE ROOSEVELT.

THE WHITE HOUSE, December 14, 1908.

INTERNATIONAL TELEGRAPHIC UNION.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed:

To the Senate and House of Representatives:

I transmit to the Congress as a matter of public interest a copy of the report of the American delegates to the tenth conference of the International Telegraphic Union, which opened at the city of Lisbon, Portugal, on May 4, 1908.

THEODORE ROOSEVELT.

THE WHITE HOUSE, December 14, 1908.

RIFLE PRACTICE IN PUBLIC SCHOOLS, ETC.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Military Affairs and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a communication from the Secretary of War, submitting draft of a bill to promote rifle practice in public schools, colleges, universities, and civilian rifle clubs. I approve the recommendation of the Secretary of War and ask for its favorable consideration by the Congress.

THEODORE ROOSEVELT.

THE WHITE HOUSE, December 14, 1908.

MILITARY EDUCATION IN CIVIL INSTITUTIONS.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Military Affairs and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a communication from the Secretary of War, submitting draft of a bill to promote military education in civil institutions of learning in the United States. I approve the recommendation of the Secretary of War and ask for its favorable consideration by the Congress.

THEODORE ROOSEVELT.

THE WHITE HOUSE, December 14, 1908.

INTERNATIONAL COPYRIGHTS.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith for the information of the Congress a copy of the report by the register of copyrights of the Library of Congress on the proceedings of the International Congress for the Revision of the Berne Copyright Convention, held at Berlin, Germany, from October

14 to November 14, 1908, which congress he attended as the delegate of the United States.

THE WHITE HOUSE, December 14, 1908.

THEODORE ROOSEVELT.

POSTAL SAVINGS BANKS.

Mr. CARTER. Mr. President, it was my intention this morning to address the Senate on the subject of postal savings depositories, with particular reference to the bill (S. 6484) to establish postal savings banks for depositing savings at interest with the security of the Government for repayment thereof, and for other purposes, made a special order for this day. At the conclusion of such remarks as I had intended to make it was my intention to move to make the bill the unfinished business; that is, formally to move that the Senate proceed with its consideration.

Numerous Senators have expressed a desire to address themselves to the merits of the bill at an early date, and I think it is due Senators with such disposition to be advised of the hours during which they may be prepared to address the Senate on the subject. I observe that the Senator in charge of the unfinished business is not at present in the Chamber, and I am therefore indisposed to make a motion to displace the existing order, and will, in consequence, reserve my remarks until immediately after the close of the morning business to-morrow. I now give notice that I will follow my observations with a motion that the Senate proceed regularly to the consideration of the postal savings depositories bill.

EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After fourteen minutes spent in executive session the doors were reopened and (at 3 o'clock and 14 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, December 15, 1908, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate Monday, December 14, 1908.

ASSAYER.

Joseph U. Eldredge, jr., of Utah, to be assayer in charge of the assay office of the United States at Salt Lake City, Utah. New office. Created by act of Congress approved May 30, 1908.

CIRCUIT JUDGES FOR HAWAII.

John A. Matthewman, of Hawaii, to be judge of the circuit court of the third circuit of the Territory of Hawaii. A reappointment, his term expiring December 11, 1908.

J. Hardy, of Hawaii, to be judge of the circuit court of the fifth circuit of the Territory of Hawaii. A reappointment, his term expiring December 11, 1908.

Charles F. Parsons, of Hawaii, to be judge of the circuit court of the fourth circuit of the Territory of Hawaii. A reappointment, his term expiring December 11, 1908.

UNITED STATES ATTORNEY.

Fred C. Cubberly, of Florida, to be United States attorney for the northern district of Florida, vice William B. Sheppard, resigned.

REGISTERS OF THE LAND OFFICE.

Charles L. Harris, of Billings, Mont., to be register of the land office at Billings, Mont., vice Elmer E. Esselstyn, resigned, and Robert P. Jackson, temporary appointee.

Harry H. Myers, of Brinkley, Ark., to be register of the land office at Little Rock, Ark., to fill vacancy caused by his resignation in October, and vice Lewis E. Eddy, temporary appointee.

Thomas B. Hiskey, of Kansas, to be register of the land office at Colby, Kans., vice John Thomas, resigned.

ISTHMIAN CANAL COMMISSIONER.

Lieut. Col. Harry F. Hodges, Corps of Engineers, U. S. Army, for appointment as a member of the Isthmian Canal Commission provided for by act of Congress approved June 28, 1902, entitled "An act to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans," to which office he was appointed during the last recess of the Senate.

PROMOTIONS IN THE ARMY.

COAST ARTILLERY CORPS.

To be captains.

First Lieut. Charles L. Fisher, Coast Artillery Corps, from October 8, 1908, vice McAlister, retired from active service.

First Lieut. Charles D. Winn, Coast Artillery Corps, from October 10, 1908, vice Ketcham, promoted.

First Lieut. Frank T. Hines, Coast Artillery Corps, from December 4, 1908, vice Balentine, resigned.

First Lieut. James Totten, Coast Artillery Corps, from December 8, 1908, vice Lamoreux, promoted.

To be first lieutenants.

Second Lieut. West C. Jacobs, Coast Artillery Corps, from October 8, 1908, vice Fisher, promoted.

Second Lieut. James W. Lyon, Coast Artillery Corps, from October 10, 1908, vice Winn, promoted.

Second Lieut. Harold Geiger, Coast Artillery Corps, from November 8, 1908, vice Tompkins, deceased.

Second Lieut. Rodney H. Smith, Coast Artillery Corps, from December 4, 1908, vice Hines, promoted.

Second Lieut. Albert L. Loustalot, Coast Artillery Corps, from December 8, 1908, vice Totten, promoted.

PROMOTIONS IN THE NAVY.

Lieut. Commander Patrick W. Hourigan to be a commander in the navy from the 11th day of July, 1908, vice Commander Henry C. Gearing, promoted.

Lieut. Commander William G. Miller to be a commander in the navy from the 20th day of July, 1908, vice Commander Burns T. Walling, promoted.

Ensign William D. Greetham to be a lieutenant (junior grade) in the navy from the 30th day of July, 1908, upon the completion of three years' service in present grade.

Lieut. Commander George W. Kline to be a commander in the navy from the 1st day of August, 1908, vice Commander Clifford J. Boush, promoted.

Commander James H. Sears to be a captain in the navy from the 3d day of September, 1908, vice Capt. Greenleaf A. Merriam, deceased.

Capt. William P. Potter, an additional number in grade, to be a rear-admiral in the navy from the 30th day of October, 1908, with Capt. Gottfried Blocklinger, promoted.

Commander Charles C. Rogers to be a captain in the navy from the 30th day of October, 1908, vice Capt. Gottfried Blocklinger, promoted.

Capt. Nathan E. Niles to be a rear-admiral in the navy from the 12th day of November, 1908, vice Rear-Admiral James M. Miller, deceased.

Capt. Newton E. Mason, an additional number in grade, to be a rear-admiral in the navy from the 12th day of November, 1908, with Capt. Giles B. Harber, promoted.

Commander John T. Newton to be a captain in the navy from the 12th day of November, 1908, vice Capt. Nathan E. Niles, promoted.

Commander Benjamin Tappan, an additional number in grade, to be a captain in the navy from the 12th day of November, 1908, with Commander John T. Newton, promoted.

Lieut. Commander George R. Evans to be a commander in the navy from the 12th day of November, 1908, vice Commander John T. Newton, promoted.

Lieut. Walter S. Turpin to be a lieutenant-commander in the navy from the 28th day of January, 1909, vice Lieut. Commander William L. Howard, promoted, to correct the date from which Lieutenant-Commander Turpin takes rank as confirmed on January 30, 1908.

Lieut. William S. Whitted to be a lieutenant-commander in the navy from the 30th day of January, 1908, vice Lieut. Commander Robert B. Higgins, promoted.

Lieut. Walter J. Manion to be a lieutenant-commander in the navy from the 25th day of February, 1908, vice Lieut. Commander Isaac K. Seymour, deceased, to correct the date from which Lieutenant-Commander Manion takes rank as confirmed on April 23, 1908.

Lieut. George E. Gelm to be a lieutenant-commander in the navy from the 17th day of April, 1908, vice Lieut. Commander Charles S. Bookwalter, resigned.

Lieut. Frank H. Brumby to be a lieutenant-commander in the navy from the 23d day of April, 1908, vice Lieut. Commander John C. Leonard, promoted.

Lieut. James P. Morton, an additional number in grade, to be a lieutenant-commander in the navy from the 23d day of April, 1908, with Lieut. Frank H. Brumby, promoted.

Lieut. Frank P. Baldwin to be a lieutenant-commander in the navy from the 24th day of April, 1908, vice Lieut. Commander John M. Ellicott, promoted.

Lieut. George L. P. Stone to be a lieutenant-commander in the navy from the 15th day of May, 1908, vice Lieut. Commander Charles W. Dyson, promoted.

Lieut. Harris Laning to be a lieutenant-commander in the navy from the 1st day of July, 1908, vice Lieut. Commander Harry George, promoted.

Lieut. Franklin D. Karns to be a lieutenant-commander in the navy from the 1st day of July, 1908, vice Lieut. Commander Frederick L. Chapin, promoted.

Lieut. David W. Todd to be a lieutenant-commander in the navy from the 1st day of July, 1908, vice Lieut. Commander William C. Herbert, promoted.

Lieut. John V. Klemann to be a lieutenant-commander in the navy from the 1st day of July, 1908, vice Lieut. Commander Alexander S. Halstead, promoted.

Lieut. Henry V. Butler to be a lieutenant-commander in the navy from the 1st day of July, 1908, vice Lieut. Commander Harry A. Field, promoted.

Lieut. Walter R. Gherardi to be a lieutenant-commander in the navy from the 1st day of July, 1908, vice Lieut. Commander Chester M. Knepper, promoted.

Lieut. James J. Raby to be a lieutenant-commander in the navy from the 1st day of July, 1908, vice Lieut. Commander Clarence S. Williams, promoted.

Lieut. Frederic N. Freeman to be a lieutenant-commander in the navy from the 1st day of July, 1908, vice Lieut. Commander Frank K. Hill, promoted.

Lieut. William H. Standley to be a lieutenant-commander in the navy from the 1st day of July, 1908, vice Lieut. Commander Roger Welles, promoted.

Lieut. Kenneth M. Bennett to be a lieutenant-commander in the navy from the 1st day of July, 1908, vice Lieut. Commander John D. McDonald, promoted.

Lieut. Edward H. Watson to be a lieutenant-commander in the navy from the 1st day of July, 1908, vice Lieut. Commander Hilary P. Jones, promoted.

Lieut. James E. Walker to be a lieutenant-commander in the navy from the 1st day of July, 1908, vice Lieut. Commander William R. Shoemaker, promoted.

Lieut. Rufus Z. Johnston to be a lieutenant-commander in the navy from the 1st day of July, 1908, vice Lieut. Commander Charles P. Plunkett, promoted.

Lieut. Thomas D. Parker to be a lieutenant-commander in the navy from the 4th day of July, 1908, vice Lieut. Commander Volney O. Chase, promoted.

Lieut. Thomas T. Craven to be a lieutenant-commander in the navy from the 19th day of July, 1908, vice Lieut. Commander George R. Slocum, promoted.

Lieut. Daniel W. Wurtzbaugh, an additional number in grade, to be a lieutenant-commander in the navy from the 19th day of July, 1908, with Lieut. Thomas T. Craven, promoted.

Lieut. Ralph Earle to be a lieutenant-commander in the navy from the 20th day of July, 1908, vice Lieut. Commander William G. Miller, promoted.

Lieut. Gatewood S. Lincoln to be a lieutenant-commander in the navy from the 1st day of August, 1908, vice Lieut. Commander George W. Kline, promoted.

Lieut. Wat T. Cluverius to be a lieutenant-commander in the navy from the 25th day of October, 1908, vice Lieut. Commander Harrison A. Bispham, promoted.

First Lieut. Frank C. Lander to be a captain in the Marine Corps from the 13th day of May, 1908, vice Capt. Newt H. Hall, promoted.

First Lieut. Eli T. Fryer to be a captain in the Marine Corps from the 13th day of May, 1908, vice Capt. Charles S. Hill, promoted.

First Lieut. Earl H. Ellis to be a captain in the Marine Corps from the 14th day of May, 1908, vice Capt. David D. Porter, appointed assistant adjutant and inspector.

Second Lieut. Samuel W. Bogan to be a first lieutenant in the Marine Corps from the 13th day of May, 1908, vice First Lieut. Robert Y. Rhea, promoted.

Second Lieut. Albert E. Randall to be a first lieutenant in the Marine Corps from the 13th day of May, 1908, vice First Lieut. Thomas Holcomb, jr., promoted.

Lieut. Jonas H. Holden to be a lieutenant-commander in the navy from the 11th day of July, 1908, vice Lieut. Commander Patrick W. Hourigan, promoted.

Assistant Paymaster Horace B. Worden to be a passed assistant paymaster in the navy from the 23d day of October, 1908, upon the completion of three years' service in present grade.

Mate William G. Smith, U. S. Navy, retired (died June 9, 1907), to be a mate on the retired list, with the rank and retired pay of the next higher grade, viz, the lowest grade of warrant officers, from the 29th day of June, 1906, to the date of his death, June 9, 1907, in accordance with the provisions of an act of Congress approved June 29, 1906.

POSTMASTERS.

ALABAMA.

George R. Lewis to be postmaster at Bessemer, Ala., in place of George R. Lewis. Incumbent's commission expires February 4, 1909.

John X. Thomas to be postmaster at Ensley, Ala., in place of John W. Clayton, resigned.

Henry C. Willis to be postmaster at Alexander City, Ala., in place of Joseph C. Manning. Incumbent's commission expired December 12, 1908.

GEORGIA.

H. B. Lemcke to be postmaster at Darien, Ga., in place of Charles R. Jackson, removed.

Clarence W. Withoft to be postmaster at Fort Valley, Ga., in place of Clarence W. Withoft. Incumbent's commission expires January 13, 1909.

IDAHO.

Nettie B. Carpenter to be postmaster at Grangeville, Idaho, in place of Julia A. Garber. Incumbent's commission expires December 14, 1908.

ILLINOIS.

Philip H. Baker to be postmaster at Jonesboro, Ill., in place of Philip H. Baker. Incumbent's commission expired December 12, 1908.

IOWA.

Albert R. Kullmer to be postmaster at Dysart, Iowa, in place of Albert R. Kullmer. Incumbent's commission expires January 13, 1909.

MAINE.

George D. Libby to be postmaster at Gardiner, Me., in place of George D. Libby. Incumbent's commission expired December 8, 1908.

MARYLAND.

William Hall Harris to be postmaster at Baltimore, Md., in place of William Hall Harris. Incumbent's commission expires January 10, 1909.

Jesse West to be postmaster at North East, Md., in place of Jesse West. Incumbent's commission expired December 13, 1908.

MICHIGAN.

Herman A. Wyckoff to be postmaster at Pontiac, Mich., in place of Herman A. Wyckoff. Incumbent's commission expired December 12, 1908.

MINNESOTA.

William B. Anderson to be postmaster at Hopkins, Minn., in place of William B. Anderson. Incumbent's commission expired December 12, 1908.

MISSOURI.

William Bostian to be postmaster at Independence, Mo., in place of William Bostian. Incumbent's commission expired December 13, 1908.

Solomon R. McKay to be postmaster at Troy, Mo., in place of Solomon R. McKay. Incumbent's commission expires January 14, 1909.

NEBRASKA.

George H. Borden to be postmaster at Beaver Crossing, Nebr. Office became presidential October 1, 1908.

Frederick W. Richardson to be postmaster at Battle Creek, Nebr. Office became presidential July 1, 1908.

NEW MEXICO.

Edward Pennington to be postmaster at Deming, N. Mex., in place of Edward Pennington. Incumbent's commission expired December 12, 1908.

NEW YORK.

Reuben Kline to be postmaster at Port Leyden, N. Y. Office became presidential October 1, 1908.

Charles J. Sweet to be postmaster at Black River, N. Y., in place of Charles J. Sweet. Incumbent's commission expired December 13, 1908.

Charles M. Waters to be postmaster at Lyons Falls, N. Y. Office became presidential July 1, 1908.

Earl L. Whiting to be postmaster at Delevan, N. Y., in place of Earl L. Whiting. Incumbent's commission expired December 13, 1908.

PENNSYLVANIA.

Charles Crouse to be postmaster at Wyoming, Pa., in place of Charles Crouse. Incumbent's commission expired February 23, 1907.

William A. Feist to be postmaster at White Haven, Pa., in place of William A. Feist. Incumbent's commission expires December 15, 1908.

Christian E. Geyer to be postmaster at Catawissa, Pa., in place of Christian E. Geyer. Incumbent's commission expired December 13, 1908.

Samuel C. Graham to be postmaster at Starjunction, Pa., in place of Martin E. Strawn, resigned.

William Krause to be postmaster at Richland Center, Pa., in place of William Krause. Incumbent's commission expires December 15, 1908.

John Nelson to be postmaster at Leetsdale, Pa., in place of David McC. Woods, resigned.

UTAH.

Johnathan S. Page, jr., to be postmaster at Payson, Utah, in place of Jonathan S. Page, jr. Incumbent's commission expires December 14, 1908.

CONFIRMATIONS.

Executive nominations confirmed by the Senate December 14, 1908.

CONSULS-GENERAL.

Hector de Castro, of New York, to be consul-general of the United States of class 5 at Zurich, Switzerland.

Ernest L. Harris, of Illinois, to be consul-general of the United States of class 6 at Smyrna, Turkey.

Paul Nash, of New York, to be consul-general of the United States of class 6 at Budapest, Hungary.

Hunter Sharp, of North Carolina, to be consul-general of the United States of class 4 at Moscow, Russia.

Robert P. Skinner, of Ohio, to be consul-general of the United States of class 2 at Hamburg, Germany.

CONSULS.

George A. Bucklin, jr., of Oklahoma, to be consul of the United States of class 8 at San Luis Potosi, Mexico.

William Bardel, of New York, to be consul of the United States of class 6 at Rheims, France.

Robert S. S. Burgh, of North Dakota, to be consul of the United States of class 7 at Belgrade, Serbia.

Wallace C. Bond, of Wyoming, to be consul of the United States of class 7 at Karachi, India.

Chapman Coleman, of Kentucky, to be consul of the United States of class 6 at Rome, Italy.

William Coffin, of Kentucky, to be consul of the United States of class 8 at Tripoli, Tripoli.

Hernando de Soto, of California, to be consul of the United States of class 7 at Riga, Russia.

Harry P. Dill, of Maine, to be consul of the United States of class 8 at Orillia, Ontario, Canada.

John Fowler, of Massachusetts, to be consul of the United States of class 4 of Chefoo, China.

Arthur Garrels, of Missouri, to be consul of the United States of class 8 at Zanzibar, Zanzibar.

Edwin N. Gunsaulus, of Ohio, to be consul of the United States of class 3 at Johannesburg, Transvaal.

Michael J. Hendrick, of New York, to be consul of the United States of class 9 at Moncton, New Brunswick, Canada.

Arminius T. Haeberle, of Missouri, to be consul of the United States of class 9 at Manzanillo, Mexico.

George N. Ifft, of Idaho, to be consul of the United States of class 5 at Warsaw, Russia.

Joseph E. Haven, of Illinois, to be consul of the United States of class 8 at Roubaix, France.

Alexander Heingartner, of Ohio, to be consul of the United States of class 8 at Batum, Russia.

John F. Jewell, of Illinois, to be consul of the United States of class 7 at Melbourne, Australia.

Douglas Jenkins, of South Carolina, to be consul of the United States of class 9 at St. Pierre, St. Pierre Island.

Jesse B. Jackson, of Ohio, to be consul of the United States of class 7 at Aleppo, Turkey.

John E. Kehl, of Ohio, to be consul of the United States of class 7 at Sydney, Nova Scotia.

Will L. Lowrie, of Illinois, to be consul of the United States of class 8 at Erfurt, Germany.

Alphonse J. Lespinasse, of New York, to be consul of the United States of class 7 at Frontera, Mexico.

William W. Masterson, of Kentucky, to be consul of the United States of class 7 at Harput, Turkey.

Chester W. Martin, of Michigan, to be consul of the United States of class 7 at Barbados, West Indies.

Robert E. Mansfield, of Indiana, to be consul of the United States of class 4 at St. Gall, Switzerland.

Samuel E. Magill, of Illinois, to be consul of the United States of class 6 at Guadalajara, Mexico.

Samuel C. Reat, of Illinois, to be consul of the United States of class 9 at Port Louis, Mauritius.

James W. Ragsdale, of California, to be consul of the United States of class 6 at St. Petersburg, Russia.

John H. Snodgrass, of West Virginia, to be consul of the United States of class 3 at Kobe, Japan.

Nathaniel B. Stewart, of Georgia, to be consul of the United States of class 7 at Madras, India.

Clarence Rice Slocum, of New York, to be consul of the United States of class 6 at Fiume, Hungary.

Ralph J. Totten, of Tennessee, to be consul of the United States of class 9 at Puerto Plata, Dominican Republic.

William C. Teichmann, of Missouri, to be consul of the United States of class 7 at Colombo, Ceylon.

Ernest A. Wakefield, of Maine, to be consul of the United States of class 6 at Rangoon, India.

Evan E. Young, of South Dakota, to be consul of the United States of class 6 at Saloniki, Turkey.

PROMOTIONS IN THE REVENUE-CUTTER SERVICE.

First Lieut. Francis Adelbert Levis to be captain.

Second Lieut. Benjamin Little Brockway to be first lieutenant.

Second Lieut. John Boedeker to be first lieutenant.

Second Lieut. Harold Dale Hinckley to be first lieutenant.

Second Lieut. Charles Frederic Howell to be first lieutenant.

Second Lieut. William Henry Munter to be first lieutenant.

Second Lieut. John Lovejoy Maher, to be first lieutenant.

Second Lieut. William Ambrose O'Malley to be first lieutenant.

Second Lieut. Henry William Pope to be first lieutenant.

Third Lieut. Wales Alfred Benham to be second lieutenant.

Third Lieut. Joseph Tillotson Drake to be second lieutenant.

Third Lieut. John Jenkins Hutson to be second lieutenant.

Third Lieut. Raymond Lockwood Jack to be second lieutenant.

Third Lieut. Chester Hardy Jones to be second lieutenant.

Third Lieut. John Farrell McGourty to be second lieutenant.

Third Lieut. Fred Arthur Nichols to be second lieutenant.

Third Lieut. Philip Francis Roach to be second lieutenant.

Third Lieut. Thomas Andrew Shanley to be second lieutenant.

Third Lieut. Charles Frederic Seiter to be second lieutenant.

First Lieut. of Engineers Frederick Elias Owen to be senior engineer.

Second Lieut. of Engineers John Irvin Bryan to be first lieutenant of engineers.

Third Lieut. of Engineers Clarence James Curtiss to be second lieutenant of engineers.

Third Lieut. of Engineers John Thomas Carr to be second lieutenant of engineers.

Third Lieut. of Engineers Webb Cudworth Maglathlin to be second lieutenant of engineers.

Third Lieut. of Engineers Whitney Matthews Prall to be second lieutenant of engineers.

Third Lieut. of Engineers Albert Frank Patterson to be second lieutenant of engineers.

Third Lieut. of Engineers Frederick Harvey Young to be second lieutenant of engineers.

Cadet Engineer Frank Everett Bagger, of New York, to be third lieutenant of engineers.

Cadet Engineer Alvan Hovey Bixby, of Massachusetts, to be third lieutenant of engineers.

Cadet Engineer Martin Augustus Doyle, of Virginia, to be third lieutenant of engineers.

Cadet Engineer Philip Bently Eaton, of Connecticut, to be third lieutenant of engineers.

Cadet Engineer Norman Brierley Hall, of New York, to be third lieutenant of engineers.

Cadet Engineer Sydney Baxter Orne, of Maine, to be third lieutenant of engineers.

Cadet Engineer Hugh Burton Robinson, of New York, to be third lieutenant of engineers.

Cadet Engineer Thomas Homer Yeager, of Virginia, to be third lieutenant of engineers.

Cadet James Pine, of New York, to be a third lieutenant.

Cadet Michael John Ryan, of Colorado, to be a third lieutenant.

Cadet Edward Joseph Donohue, of New York, to be a third lieutenant.

Cadet Warner Kleth Thompson, of Iowa, to be a third lieutenant.

Cadet Joseph Raoul Besse, of North Dakota, to be a third lieutenant.

Cadet William Francis Towle, of Massachusetts, to be a third lieutenant.

PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE.

Asst. Surg. George L. Collins to be passed assistant surgeon.
Asst. Surg. Harvey G. Ebert to be passed assistant surgeon.
Asst. Surg. Herbert M. Manning to be passed assistant surgeon.

Asst. Surg. Norman Roberts to be passed assistant surgeon.
Asst. Surg. Ernest A. Sweet to be passed assistant surgeon.
Asst. Surg. Robert D. Spratt to be passed assistant surgeon.
Asst. Surg. Frederick C. Smith to be passed assistant surgeon.
Asst. Surg. Thomas W. Salmon to be passed assistant surgeon.
Asst. Surg. William M. Wightman to be passed assistant surgeon.

Randolph M. Grimm, of Virginia, to be assistant surgeon.
Paul Preble, of Maine, to be assistant surgeon.
Joseph R. Ridlon, of Maine, to be assistant surgeon.

SECOND ASSISTANT POSTMASTER-GENERAL.

Joseph Stewart, of Missouri, to be Second Assistant Postmaster-General.

COLLECTORS OF CUSTOMS.

John R. Willis, of Alaska, to be collector of customs for the district of Alaska.

Malcolm J. McLeod, of Michigan, to be collector of internal revenue for the first district of Michigan.

Sherman T. Newton, of New Hampshire, to be collector of customs for the district of Portsmouth, in the State of New Hampshire.

SURVEYOR OF CUSTOMS.

J. Frank Taylor, of Kentucky, to be surveyor of customs for the port of Louisville, Ky.

SECRETARY OF EMBASSY.

Lewis Einstein, of New York, to be secretary of the embassy of the United States at Constantinople, Turkey.

SECOND SECRETARY OF EMBASSY.

William Blumenthal, of New York, to be second secretary of the embassy of the United States at Constantinople, Turkey.

SECOND SECRETARY OF LEGATION.

G. Cornell Tarler, of New York, to be second secretary of the legation of the United States at Habana, Cuba.

REGISTERS OF LAND OFFICES.

Nathan H. Alexander, of Montgomery, Ala., to be register of the land office at Montgomery, Ala.

Robert N. Dunn, of Idaho, to be register of the land office at Coeur d'Alene, Idaho.

PROMOTIONS IN THE ARMY.

QUARTERMASTER'S DEPARTMENT.

Capt. Joseph T. Davidson, quartermaster, to be quartermaster with the rank of major from April 25, 1908, vice Crabbs, retired from active service.

MEDICAL CORPS.

To be lieutenant-colonels.

Maj. Edward Champe Carter, Medical Corps, from April 23, 1908, vice Crampton, promoted.

Maj. William Stephenson, Medical Corps, from May 1, 1908, vice Powell, retired from active service.

To be majors.

Capt. James R. Church, Medical Corps, from May 1, 1908, vice Stephenson, promoted.

Capt. Joseph H. Ford, Medical Corps, from May 20, 1908, vice Hallock, retired from active service.

Capt. Percy M. Ashburn, Medical Corps, from June 24, 1908, vice Kieffer, retired from active service.

CORPS OF ENGINEERS.

To be colonels.

Lieut. Col. Smith S. Leach, Corps of Engineers, from June 2, 1908, vice Sears, retired from active service.

Lieut. Col. Dan C. Kingman, Corps of Engineers, from July 6, 1908, vice Marshall, appointed Chief of Engineers.

Lieut. Col. William M. Black, Corps of Engineers, from July 28, 1908, vice Symons, retired from active service.

Lieut. Col. Walter L. Fisk, Corps of Engineers, from August 7, 1908, vice Hoxie, retired from active service.

To be lieutenant-colonels.

Maj. William C. Langfitt, Corps of Engineers, from June 2, 1908, vice Leach, promoted.

Maj. James C. Sanford, Corps of Engineers, from July 6, 1908, vice Kingman, promoted.

Maj. Hiram M. Chittenden, Corps of Engineers, from July 28, 1908, vice Black, promoted.

Maj. Graham D. Fitch, Corps of Engineers, from August 7, 1908, vice Fisk, promoted.

To be majors.

Capt. Charles W. Kutz, Corps of Engineers, from June 2, 1908, vice Langfitt, promoted.

Capt. Meriwether L. Walker, Corps of Engineers, from July 6, 1908, vice Sanford, promoted.

Capt. Robert R. Raymond, Corps of Engineers, from July 28, 1908, vice Chittenden, promoted.

Capt. William B. Ladue, Corps of Engineers, from August 7, 1908, vice Fitch, promoted.

To be captains.

First Lieut. George R. Spalding, Corps of Engineers, from June 2, 1908, vice Kutz, promoted.

First Lieut. Elliott J. Dent, Corps of Engineers, from July 6, 1908, vice Walker, promoted.

First Lieut. William G. Caples, Corps of Engineers, from July 28, 1908, vice Raymond, promoted.

First Lieut. Henry C. Jewett, Corps of Engineers, from August 7, 1908, vice Ladue, promoted.

To be first lieutenants.

Second Lieut. Roger G. Powell, Corps of Engineers, from June 2, 1908, vice Spalding, promoted.

Second Lieut. John N. Hodges, Corps of Engineers, from July 6, 1908, vice Dent, promoted.

Second Lieut. Arthur R. Ehrnbeck, Corps of Engineers, from July 28, 1908, vice Caples, promoted.

Second Lieut. Harold S. Hetrick, Corps of Engineers, from August 7, 1908, vice Jewett, promoted.

ORDNANCE DEPARTMENT.

Capt. Edward P. O'Hern, Ordnance Department, to be major from October 31, 1908, vice Fuller, retired from active service.

CHAPLAINS.

Chaplain Halsey C. Gavitt, First Cavalry, to be chaplain with the rank of major from October 27, 1908.

Chaplain Henry A. Brown, Corps of Engineers, to be chaplain with the rank of major from November 12, 1908.

CAVALRY ARM.

Lieut. Col. James B. Hickey, unassigned, to be colonel from November 15, 1908, vice Godwin, Fourteenth Cavalry, retired from active service.

Maj. William D. Beach, Fifteenth Cavalry, to be lieutenant-colonel from November 15, 1908, vice Taylor, Fourth Cavalry, detailed as adjutant-general.

Capt. William F. Flynn, Eighth Cavalry, to be major from November 15, 1908, vice Beach, Fifteenth Cavalry, promoted.

To be captains.

First Lieut. Alvan C. Gillem, Fifth Cavalry, from September 21, 1908, vice Heldt, Eleventh Cavalry, retired from active service.

First Lieut. William B. Cowin, Third Cavalry, from November 15, 1908, vice Flynn, Eighth Cavalry, promoted.

To be first lieutenants.

Second Lieut. Sidney D. Maize, Third Cavalry, from May 18, 1908, vice Lusk, Twelfth Cavalry, retired from active service.

Second Lieut. William S. Barriger, Fifteenth Cavalry, from July 1, 1908, vice Jordan, Eighth Cavalry, detailed in the Ordnance Department.

Second Lieut. Ralph M. Parker, Eleventh Cavalry, from July 30, 1908, vice Dixon, Fifth Cavalry, detailed in the Signal Corps.

Second Lieut. John H. Howard, Ninth Cavalry, from August 2, 1908, vice Mangum, Eighth Cavalry, retired from active service.

Second Lieut. John K. Hume, Fourteenth Cavalry, from September 21, 1908, vice Gillem, Fifth Cavalry, promoted.

Second Lieut. Matt C. Bristol, Thirteenth Cavalry, from November 15, 1908, vice Cowin, Third Cavalry, promoted.

FIELD ARTILLERY ARM.

First Lieut. Morris E. Locke, Third Field Artillery, to be captain from August 25, 1908, vice Overton, Third Field Artillery, retired from active service.

To be first lieutenants.

Second Lieut. Fred T. Cruse, Third Field Artillery, from July 1, 1908, vice Kean, First Field Artillery, detailed in the Ordnance Department.

Second Lieut. James P. Marley, First Field Artillery, from July 20, 1908, vice Roemer, Sixth Field Artillery, deceased.

Second Lieut. Waldo C. Potter, Fifth Field Artillery, from August 25, 1908, vice Locke, First Field Artillery, promoted.

Second Lieut. Harry Pfeil, Fifth Field Artillery, from September 17, 1908, vice Selfridge, First Field Artillery, deceased.

COAST ARTILLERY CORPS.

To be colonels.

Lieut. Col. George L. Anderson, Coast Artillery Corps, from July 10, 1908, vice Cummins, retired from active service.

Lieut. Col. William H. Coffin, Coast Artillery Corps, from September 1, 1908, vice Homer, retired from active service.

Lieut. Col. Albert Todd, Coast Artillery Corps, from October 10, 1908, vice Stewart, retired from active service.

To be lieutenant-colonels.

Maj. Charles L. Phillips, Coast Artillery Corps, from July 10, 1908, vice Woodward, detailed as inspector-general.

Maj. Charles J. Bailey, Coast Artillery Corps, from September 1, 1908, vice Coffin, promoted.

Maj. Clarence P. Townsley, Coast Artillery Corps, from October 10, 1908, vice Todd, promoted.

To be majors.

Capt. William C. Davis, Coast Artillery Corps, from July 10, 1908, vice Phillips, promoted.

Capt. Frank G. Mauldin, Coast Artillery Corps, from September 1, 1908, vice Bailey, promoted.

Capt. Daniel W. Ketcham, Coast Artillery Corps, from October 10, 1908, vice Townsley, promoted.

To be captains.

First Lieut. James A. Thomas, Coast Artillery Corps, from July 13, 1908, vice Marshall, detailed as quartermaster.

First Lieut. John C. Ohnstad, Coast Artillery Corps, from September 1, 1908, vice Mauldin, promoted.

First Lieut. Clarence M. Condon, Coast Artillery Corps, from September 21, 1908, vice Macon, retired from active service.

First Lieut. Curtis G. Rorebeck, Coast Artillery Corps, from September 28, 1908, vice Vance, retired from active service.

First Lieut. James D. Watson, Coast Artillery Corps, from September 29, 1908, vice Applewhite, retired from active service.

To be first lieutenants.

Second Lieut. John E. Townes, jr., Coast Artillery Corps, from July 1, 1908, vice Gatewood, detailed in the Ordnance Department.

Second Lieut. Robert E. Vose, Coast Artillery Corps, from July 1, 1908, vice Wilhelm, detailed in the Ordnance Department.

Second Lieut. Dean Hall, Coast Artillery Corps, from July 1, 1908, vice Mahaffey, detailed in the Ordnance Department.

Second Lieut. John S. Williams, Coast Artillery Corps, from July 13, 1908, vice Thomas, promoted.

Second Lieut. George Ruhlen, jr., Coast Artillery Corps, from July 27, 1908, vice Scott, resigned.

Second Lieut. John E. Mort, Coast Artillery Corps, from September 1, 1908, vice Ohnstad, promoted.

Second Lieut. Junnius Pierce, Coast Artillery Corps, from September 21, 1908, vice Condon, promoted.

Second Lieut. Henry W. T. Eglin, Coast Artillery Corps, from September 28, 1908, vice Rorebeck, promoted.

Second Lieut. Halvor G. Coulter, Coast Artillery Corps, from September 29, 1908, vice Watson, promoted.

INFANTRY ARM.

To be colonels.

Lieut. Col. William H. C. Bowen, Eighteenth Infantry, from July 1, 1908, vice Allen, Twelfth Infantry, retired from active service.

Lieut. Col. Henry E. Robinson (since retired from active service), detailed adjutant-general, from October 24, 1908, vice Smith, Eighth Infantry, appointed brigadier-general.

Lieut. Col. Charles W. Mason, Twenty-ninth Infantry, from October 28, 1908, vice Robinson, unassigned, retired from active service.

To be lieutenant-colonels.

Maj. Alexis R. Paxton, Thirteenth Infantry, from June 25, 1908, vice Augur, Twenty-fourth Infantry, deceased.

Maj. Zerah W. Torrey, detailed inspector-general, from July 1, 1908, vice Bowen, Eighteenth Infantry, promoted.

Maj. James B. Jackson, Eleventh Infantry, from July 18, 1908, vice Hardin, Twenty-sixth Infantry, retired from active service.

Maj. Reuben B. Turner, Eighth Infantry, from October 28, 1908, vice Mason, Twenty-ninth Infantry, promoted.

Maj. Daniel A. Frederick, Twenty-second Infantry, from October 28, 1908, vice Jones, Nineteenth Infantry, detailed as adjutant-general.

To be majors.

Capt. Beaumont B. Buck, Sixteenth Infantry, from June 25, 1908, vice Paxton, Thirteenth Infantry, promoted.

Capt. William F. Martin, Fifth Infantry, from June 30, 1908, vice Purssell, Eighteenth Infantry, retired from active service.

Capt. Evan M. Johnson, jr., Eighth Infantry, from June 3, 1908, vice Bundy, Sixth Infantry, detailed as inspector-general.

Capt. Frank McIntyre (major, Bureau of Insular Affairs), from July 18, 1908, vice Jackson, Eleventh Infantry, promoted.

Capt. David J. Baker, jr., Ninth Infantry, from July 18, 1908, vice McIntyre, detailed in the Bureau of Insular Affairs.

Capt. Benjamin A. Poore, Sixth Infantry, from October 28, 1908, vice Frederick, Twenty-second Infantry, promoted.

Capt. James H. McRae, Third Infantry, from October 31, 1908, vice Leonhaeuser, Sixteenth Infantry, retired from active service.

To be captains.

First Lieut. Ernest E. Haskell, Twenty-ninth Infantry, from April 3, 1908, vice Laws, Twenty-fourth Infantry, deceased.

First Lieut. Jack Hayes, Sixteenth Infantry, from April 3, 1908, vice Stone, Twenty-second Infantry, detailed as quartermaster.

First Lieut. William H. Waldron, detailed in the Signal Corps, from April 3, 1908, vice Ford, Fifth Infantry, detailed as quartermaster.

First Lieut. Joseph K. Partello, Fifth Infantry, from April 24, 1908, vice Parmerter, Twenty-first Infantry, promoted.

First Lieut. Leon L. Roach, Sixteenth Infantry, from May 9, 1908, vice Smiley, Fifteenth Infantry, promoted.

First Lieut. Horace P. Hobbs, Seventeenth Infantry, from May 15, 1908, vice Devore, Twenty-third Infantry, promoted.

First Lieut. Louis J. Van Schaick, Fourth Infantry, from June 25, 1908, vice Buck, Sixteenth Infantry, promoted.

First Lieut. George S. Tiffany, Twenty-first Infantry, from June 30, 1908, vice Martin, Fifth Infantry, promoted.

First Lieut. Edgar A. Myer, Eleventh Infantry, from July 3, 1908, vice Lawton, Nineteenth Infantry, retired from active service.

First Lieut. Arthur M. Shipp, Twentieth Infantry, from July 3, 1908, vice Johnson, Eighth Infantry, promoted.

First Lieut. Joseph W. Beacham, jr., Twenty-seventh Infantry, from July 18, 1908, vice Baker, Ninth Infantry, promoted.

First Lieut. Francis J. McConnell, Seventeenth Infantry, from July 24, 1908, vice Shelton, Eleventh Infantry, detailed in the Bureau of Insular Affairs.

First Lieut. Richard P. Rifenberick, jr., Twenty-ninth Infantry, from September 8, 1908, vice Moore, Fifteenth Infantry, deceased.

First Lieut. Graham L. Johnson, Eleventh Infantry, from September 16, 1908, vice Walton, Sixth Infantry, retired from active service.

First Lieut. Charles E. Hay, jr., Twenty-fourth Infantry, from October 2, 1908, vice Chiles, Eleventh Infantry, deceased.

First Lieut. Robert H. Wescott, Sixteenth Infantry, from October 19, 1908, vice Parker, Twenty-fourth Infantry, retired from active service.

First Lieut. George W. Wallace, Twentieth Infantry, from October 28, 1908, vice Poore, Sixth Infantry, promoted.

First Lieut. Paul Hurst, Third Infantry, from October 31, 1908, vice McRae, Third Infantry, promoted.

To be first lieutenants.

Second Lieut. Gilbert H. Stewart, detailed first lieutenant in the Ordnance Department, from November 24, 1907, vice Mullen, Twenty-first Infantry, retired from active service.

Second Lieut. Edward J. Moran, Twenty-seventh Infantry, from November 24, 1907, vice Gibert, detailed in the Ordnance Department.

Second Lieut. John R. McGinness, Sixth Infantry, from December 5, 1907, vice Wilson, Twenty-second Infantry, resigned.

Second Lieut. Henry M. Nelly, Twentieth Infantry, from December 11, 1907, vice De Funiak, Eleventh Infantry, promoted.

Second Lieut. Frederick F. Black, Tenth Infantry, from December 23, 1907, vice Armstrong, Sixth Infantry, retired from active service.

Second Lieut. James M. Hobson, jr., Twenty-seventh Infantry, from December 23, 1907, vice McCoy, Twenty-seventh Infantry, promoted.

Second Lieut. David H. Bower, Twelfth Infantry, from December 28, 1907, vice Townsend, Twenty-third Infantry, promoted.

Second Lieut. Hiram M. Cooper, Tenth Infantry, from January 1, 1908, vice Brewer, Twenty-first Infantry, promoted.

Second Lieut. Benjamin F. Miller, Twenty-seventh Infantry, from January 27, 1908, vice Parsons, Twentieth Infantry, promoted.

Second Lieut. Louis Soléllac, Sixteenth Infantry, from February 13, 1908, vice Ball, Twenty-first Infantry, promoted.

Second Lieut. Charles M. Blackford, Sixth Infantry, from March 5, 1908, vice Smith, Eighteenth Infantry, promoted.

Second Lieut. Walter O. Boswell, Sixteenth Infantry, from March 8, 1908, vice Doster, Twenty-first Infantry, promoted.

Second Lieut. Deshler Whiting, Ninth Infantry, from March 14, 1908, vice Price, Fifth Infantry, promoted.

Second Lieut. Gulielmus V. Heidt, Sixth Infantry, from March 14, 1908, vice Warfield, Thirtieth Infantry, promoted.

Second Lieut. Samuel J. Sutherland, Thirteenth Infantry, from March 14, 1908, vice McCaskey, Twenty-first Infantry, promoted.

Second Lieut. Edmund B. Iglehart, Third Infantry, from March 14, 1908, vice Lang, Fifteenth Infantry, promoted.

Second Lieut. Emory S. Adams, Fourteenth Infantry, from March 15, 1908, vice Dockery, Third Infantry, promoted.

Second Lieut. Ralph W. Drury, Ninth Infantry, from March 16, 1908, vice Thomas, Seventeenth Infantry, promoted.

Second Lieut. John C. Fairfax, Twenty-first Infantry, from March 18, 1908, vice Elliott, Thirteenth Infantry, promoted.

Second Lieut. Fred C. Miller, Twenty-third Infantry, from March 24, 1908, vice Freeman, Twenty-first Infantry, promoted.

Second Lieut. Charles L. Mitchell, Twenty-fourth Infantry, from April 3, 1908, vice Hunt, Eighth Infantry, promoted.

Second Lieut. Alfred Brandt, Twenty-fifth Infantry, from April 3, 1908, vice Haskell, Twenty-ninth Infantry, promoted.

Second Lieut. Robert John West, Twenty-sixth Infantry, from April 3, 1908, vice Hayes, Sixteenth Infantry, promoted.

Second Lieut. Seeley A. Wallen, Twenty-fifth Infantry, from April 15, 1908, vice Lewis, Eighteenth Infantry, detailed in the Signal Corps.

Second Lieut. Archibald G. Hutchinson, Third Infantry, from April 24, 1908, vice Partello, Fifth Infantry, promoted.

Second Lieut. Odiorne H. Sampson, Second Infantry, from May 15, 1908, vice Hobbs, Seventeenth Infantry, promoted.

Second Lieut. Charles G. Sturtevant, Ninth Infantry, from June 5, 1908, vice Smith, Sixteenth Infantry, retired from active service.

Second Lieut. Albert Hardman, Twelfth Infantry, from June 7, 1908, vice Vredenburg, Eleventh Infantry, resigned.

Second Lieut. William E. Holliday, Seventeenth Infantry, from June 25, 1908, vice Van Schaick, Fourth Infantry, promoted.

Second Lieut. Frank B. Kobes, Fourteenth Infantry, from June 30, 1908, vice Tiffany, Twenty-first Infantry, promoted.

Retired, with the rank of brigadier-general.

Col. James B. Hickey, cavalry, unassigned, to be placed on the retired list of the army, with the rank of brigadier-general from the date on which he shall be retired from active service.

Col. Edward A. Godwin, retired, with rank from November 15, 1908.

Retired, with the rank of captain.

First Lieut. Samuel T. Weirick, retired, with rank from June 18, 1908.

First Lieut. James Reagles, retired, with rank from September 12, 1908.

MEDICAL CORPS.

Maj. Henry P. Birmingham, Medical Corps, to be lieutenant-colonel from April 23, 1908, vice Torney, promoted.

NOTE.—The above-named officer was nominated to the Senate on May 18, 1908, and confirmed on May 21, 1908, for promotion to a vacancy created on May 1, 1908, by the retirement of Lieut. Col. Junius L. Powell, Medical Corps, but by reason of the failure of two of his seniors to pass satisfactory examinations for promotion Major Birmingham became entitled to promotion from April 23, 1908.

APPOINTMENTS IN THE ARMY.

GENERAL OFFICER.

Col. Frederick A. Smith, Eighth Infantry, to be brigadier-general from October 24, 1908, vice Reade, retired from active service.

CORPS OF ENGINEERS.

Col. William L. Marshall, Corps of Engineers, to be Chief of Engineers, with the rank of brigadier-general from July 2, 1908, vice Mackenzie, retired from active service.

REAPPOINTMENTS IN THE PORTO RICO PROVISIONAL REGIMENT.

To be captains.

Capt. Stewart McC. Decker, with rank from July 1, 1904.

Capt. Frank L. Graham, with rank from July 2, 1904.

Capt. John M. Field, with rank from July 3, 1904.

Capt. Edwin J. Griffith, with rank from July 4, 1904.

Capt. Ralph E. Gambell, with rank from July 5, 1904.

Capt. Miles K. Taulbee, with rank from July 6, 1904.

Capt. Orval P. Townshend, with rank from July 7, 1904.

Capt. Laurance Angel, with rank from November 20, 1906.

Capt. Frank C. Wood, with rank from November 21, 1906.

Capt. Emil J. Huebscher, with rank from November 22, 1906.

Capt. William S. Woodruff, with rank from November 23, 1906.

To be first lieutenants.

First Lieut. Abram I. Miller, with rank from July 1, 1904.

First Lieut. Samuel S. Bryant, with rank from November 30, 1904.

First Lieut. William H. Armstrong, with rank from December 1, 1904.

First Lieut. Henry C. Rexach, with rank from April 1, 1905.

First Lieut. Pedro J. Parra, with rank from February 23, 1906.

First Lieut. Teofilo Marxuach, with rank from November 20, 1906.

First Lieut. Eduardo Iriarte, with rank from November 21, 1906.

First Lieut. Jaime Nadal, with rank from November 22, 1906.

First Lieut. Eugenio C. de Hostos, with rank from November 23, 1906.

First Lieut. Felix Emmanuelli, with rank from August 25, 1907.

To be second lieutenants.

Second Lieut. Pascual Lopez, with rank from March 3, 1905.

Second Lieut. Louis S. Emmanuelli, with rank from March 4, 1905.

Second Lieut. Daniel Rodriguez, with rank from January 17, 1906.

INFANTRY ARM.

To be second lieutenants, with rank from August 29, 1908.

Corpl. Roy Walter Winton, Company H, Twenty-sixth Infantry.

Sergt. Frederick Caldwell Phelps, Sixth Company, Coast Artillery Corps.

Q. M. Sergt. James Luke Frink, Troop H, Thirteenth Cavalry.

Sergt. John Burges Johnson, Company B, Hospital Corps.

Q. M. Sergt. Edmund Russell Andrews, One hundred and eighteenth Company, Coast Artillery Corps.

Master Gunner Spencer Montgomery Smith, Coast Artillery Corps.

Sergt. Joseph Albert Rogers, Company G, Ninth Infantry.

Sergt. Walter Richard Taliaferro, One hundred and tenth Company, Coast Artillery Corps.

Squadron Sergt. Maj. Henry John Damm, Third Cavalry.

Master Gunner Max Robert Wainer, Coast Artillery Corps.

Sergt. Emmett Wilbur Smith, Company I, Twenty-eighth Infantry.

Sergt. Charles Thorpe Griffith, Troop H, Thirteenth Cavalry.

MEDICAL CORPS.

First Lieut. James Reagles, Medical Reserve Corps (since retired from active service), to be first lieutenant from September 9, 1908, vice Jean, retired from active service.

First Lieut. Francis A. Halliday, Medical Reserve Corps (since retired from active service), to be first lieutenant from September 9, 1908, vice Kirby-Smith, resigned.

First Lieut. William L. Hart, Medical Reserve Corps, to be first lieutenant from September 15, 1908, vice Chidester, resigned.

To be first lieutenants, with rank from June 13, 1908.

John Raymond Barber, of Oregon, vice Godfrey, deceased.

Joseph Arliss Worthington, of Arkansas, vice Newgarden, promoted.

Mahlon Ashford, of the District of Columbia, vice Williamson, resigned.

Edward Godfrey Huber, of Missouri, vice Edwards, resigned.

John Sioussa Lambie, Jr., of Pennsylvania, vice Reilly, retired from active service.

Arthur Newman Tasker, of the District of Columbia, vice Straub, promoted.

Howard McCrum Snyder, of Wyoming, vice Stark, promoted.

Calvin Duvall Cowles, Jr., at large, vice Lynch, promoted.

Garfield Lesley McKinney, of Pennsylvania, vice Kulp, promoted.

Hiram Alfred Phillips, of Kentucky, vice Munson, promoted.

To be first lieutenant, with rank from June 16, 1908.

Contract Surg. Samuel T. Weirick (since retired from active service), vice Roberts, retired from active service.

MEDICAL RESERVE CORPS.

To be first lieutenants, with rank from July 5, 1908.

Orlando Wood Sherwin, of Vermont.
Robert F. Weir, of New York.
Theodore Andrews McGraw, of Michigan.
Harry C. Yarrow, of the District of Columbia.
Walter S. Thorne, of California.
Frank Pierce Foster, of New York.
Edmond Souchon, of Louisiana.
Louis Favrot Reynaud, of Louisiana.
Reginald Heber Fitz, of Massachusetts.
Henry O. Walker, of Michigan.
Joseph B. Bryant, of New York.
John Allan Wyeth, of New York.
Francis Parker Kinnicutt, of New York.
James Cornelius Wilson, of Pennsylvania.
A. Alexander Smith, of New York.
Virgil Pendleton Gibney, of New York.
Frederick Cheever Shattuck, of Massachusetts.
Charles Beylard G. de Nancrede, of Michigan.
J. Henry Carstens, of Michigan.
Thomas Waterman Huntington, of California.
William Tillinghast Bull, of New York.
Frederic Sheppard Dennis, of New York.
J. William White, of Pennsylvania.
Myles Standish, of Massachusetts.
Victor Clarence Vaughan, of Michigan.
Robert Abbe, of New York.
Sanger Brown, of Illinois.
Roswell Park, of New York.
William Stewart Halsted, of Maryland.
George Henry Simmons, of Illinois.
William Thomas Councilman, of Massachusetts.
Frank Billings, of Illinois.
Alvah Hunt Doty, of New York.
Harry Mitchell Sherman, of California.
Samuel Jason Mixter, of Massachusetts.
Richard Hickman Harte, of Pennsylvania.
William M. Conant, of Massachusetts.
Carl Beck, of New York.
John H. Musser, of Pennsylvania.
Charles Sumner Bacon, of Illinois.
William Gilman Thompson, of New York.
Robert Tuttle Morris, of New York.
Harvey Gilmer Mudd, of Missouri.
John Benjamin Murphy, of Illinois.
Andrew J. McCosh, of New York.
John C. Munro, of Massachusetts.
Thomas Darlington, of New York.
George Edmund de Schweinitz, of Pennsylvania.
Paul Emile Archinard, of Louisiana.
Theobald Smith, of Massachusetts.
Edward Martin, of Pennsylvania.
Samuel Treat Armstrong, of New York.
Alexander Crever Abbott, of Maryland.
Samuel Lloyd, of New York.
Charles Locke Scudder, of Massachusetts.
Henry Baird Favill, of Illinois.
Rudolph Matas, of Louisiana.
Barton Cooke Hirst, of Pennsylvania.
Arthur D. Bevan, of Illinois.
Charles Williamson Richardson, of the District of Columbia.
Alexander Lambert, of New York.
William Bradley Coley, of New York.
Charles Bingham Penrose, of Pennsylvania.
Angus McLean, of Michigan.
Malcolm La Salle Harris, of Illinois.
Hobart Amory Hare, of Pennsylvania.
George David Stewart, of New York.
Simon Flexner, of New York.
John Miller Turpin Finney, of Maryland.
James G. Mumford, of Massachusetts.
Franklin Greene Balch, of Massachusetts.
William Sydney Thayer, of Maryland.
George W. Crile, of Ohio.
John Chalmers Da Costa, of Pennsylvania.
Emmet Rixford, of California.
Robert Grier Le Conte, of Pennsylvania.
Charles Gabriel Levison, of California.
Emil Otto Jellinek, of California.

Isadore Dyer, of Louisiana.
John Baptist Blake, of Massachusetts.
William Fitch Cheney, of California.
Lewis Atterbury Conner, of New York.
Farrar Cobb, of Massachusetts.
John G. Clark, of Pennsylvania.
Joseph Colt Bloodgood, of Maryland.
Herbert C. Moffitt, of California.
William Edward Schroeder, of Illinois.
Albert John Ochsner, of Illinois.
Albert Edward Halstead, of Illinois.
Richard Clarke Cabot, of Massachusetts.
Alfred Stengel, of Pennsylvania.
Wallace Irving Terry, of California.
William Henry Haskin, of New York.
Harvey Cushing, of Maryland.
David Linn Edsall, of Pennsylvania.
John Wilson Shiels, of California.
John Taylor Bottomley, of Massachusetts.
Frederic A. Washburn, of Massachusetts.
Charles Louis Mix, of Illinois.
Charles Harrison Frazier, of Pennsylvania.
John Heysham Gibbon, of Pennsylvania.
James Farnandis Mitchell, of the District of Columbia.
John Joseph Archinard, of Louisiana.
Walter Clarke Howe, of Massachusetts.
Bertram Francis Alden, of California.
Albert Joshua Houston, of California.
William Pepper, of Pennsylvania.
Francis Denison Patterson, of Pennsylvania.
David Cheever, of Massachusetts.

To be first lieutenants, with rank from July 7, 1908.

Contract Surg. William F. de Niedman, of Kansas.
Contract Surg. Leonard Knight Graves, of New York.
Contract Surg. Ira Christopher Brown, of New York.
Contract Surg. S. Chase de Krafft, of Maryland.
Contract Surg. Frederick Hadra, of Texas.
Contract Surg. John Robert Hereford, of Missouri.
Contract Surg. Albert H. Eber, of Michigan.
Contract Surg. Isaac Williams Brewer, of New York.
Contract Surg. Joseph Lipscomb Sanford, of Virginia.
Contract Surg. Charles Henry Stearns, of Missouri.
Contract Surg. George Sellers Wallace, of Pennsylvania.
Contract Surg. George Henry Richardson, of California.
Contract Surg. James K. Stockard, of North Carolina.
Contract Surg. Frank E. Artaud, of Louisiana.
Contract Surg. Waller Holladay Dade, of Kentucky.
Contract Surg. William H. Tukey, of Maine.
Contract Surg. Wilson Murray, of Missouri.
Contract Surg. Clark Ingersoll Wertebaker, of Ohio.
Contract Surg. Elmer Seth Tenney, of Massachusetts.
Contract Surg. James Stewart Kennedy, of Pennsylvania.
Contract Surg. Walter Whitney, of Georgia.
Contract Surg. Frederick Morgan Barney, of New York.
Contract Surg. Albert Leonard Miller, of Wisconsin.
Contract Surg. J. Marchal Wheate, of Idaho.
Contract Surg. Harold Leroy Coffin, of Washington.
Contract Surg. Frederick Hessler Sparrenberger, of New Jersey.
Contract Surg. Henry W. Elliot, of Connecticut.
Contract Surg. Francis Marion McCallum, of Kansas.
Contract Surg. George Washington Daywalt, of California.
Contract Surg. Thomas W. Jackson, of Pennsylvania.
Contract Surg. William O. Cutliffe, of New York.
Contract Surg. Michael Edward Hughes, of Massachusetts.
Contract Surg. Donald Paul McCord, of Missouri.
Contract Surg. Henry du Rest Phelan, of California.
Contract Surg. Luke Baker Peck, of Massachusetts.
Contract Surg. James Botterell Pascoe, at large.
Contract Surg. Thomas S. Lowe, of Pennsylvania.
Contract Surg. Ernest Kinloch Johnstone, of California.
Contract Surg. Julius Caesar Le Hardy, of Georgia.
Contract Surg. Arthur Richard Jarrett, of New York.
Contract Surg. John Patrick Kelly, of Florida.
Contract Surg. Charles Everett MacDonald, of New York.
Contract Surg. James B. Ferguson, of Minnesota.
Contract Surg. Wallace Edgar Sabin, of Illinois.
Contract Surg. Jesse P. Truax, of Nebraska.
Contract Surg. J. Samuel White, of Pennsylvania.
Contract Surg. Thomas Gabriel Holmes, of Michigan.
Contract Surg. Victor Egbert Watkins, of the District of Columbia.
Contract Surg. Herbert Ira Harris, of New York.
Contract Surg. William Robert Sim George, of Texas.

Contract Surg. James William Hart, of West Virginia.
 Contract Surg. Leonard Samuel Hughes, of Kentucky.
 Contract Surg. Elias Hull Porter, of Ohio.
 Contract Surg. George Newlove, of Pennsylvania.
 Contract Surg. Edward Bailey, of Washington.
 Contract Surg. James Christopher Dougherty, of New York.
 Contract Surg. Charles Lee Baker, of West Virginia.
 Contract Surg. H. Newton Kierulff, of California.
 Contract Surg. Frederick Hubbell Mills, of New York.
 Contract Surg. David Durward Hogan, of Wisconsin.
 Contract Surg. Edwin Wambaugh Patterson, of the District of Columbia.
 Contract Surg. John Findley Leeper, of Wyoming.
 Contract Surg. Leonard Philip Bell, of Indiana.
 Contract Surg. John Newton Merrick, of Ohio.
 Contract Surg. Benjamin Beckham Warriner, of Virginia.
 Contract Surg. William James Enders, of Pennsylvania.
 Contract Surg. Thomas Benton McCown, of Missouri.
 Contract Surg. Madison Harlan Bowman, of Kentucky.
 Contract Surg. Harry Hill Van Kirk, of Ohio.
 Contract Surg. Clarence Fitzhugh Dickenson, of California.
 Contract Surg. Charles Wilson Johnson, of Illinois.
 Contract Surg. Fred T. Koyle, of New York.
 Contract Surg. Robert E. Sievers, at large.
 Contract Surg. Wilmont E. Brown, of Ohio.
 Contract Surg. Francis Marion Wall, of Indiana.
 Contract Surg. Alpha M. Chase, of Colorado.
 Contract Surg. Frank C. Griffith, of Ohio.
 Contract Surg. Ernest Frederick Slater, of South Carolina.
 Contract Surg. Francis Marion Wells, of Indiana.
 Contract Surg. George Fitzpatrick Adair, of the District of Columbia.
 Contract Surg. Clemens Wesley McMillan, of Texas.
 Contract Surg. Clarence Albert Treuholtz, of California.
 Contract Surg. George Ruben Clayton, of Iowa.
 Contract Surg. James Kennedy Ashburn, of Ohio.
 Contract Surg. Alva Rufus Hull, of Iowa.
 Contract Surg. Oscar Franklin Davis, of Indiana.
 Contract Surg. Rodney D. Smith, of Indiana.
 Contract Surg. Wallace Ernest Parkman, of California.
 Contract Surg. Preston S. Kellogg, of Michigan.
 Contract Surg. Joseph Wooding Love, of Missouri.
 Contract Surg. George Bass Tuttle, of Missouri.
 Contract Surg. Samuel Alexander Springwater, of Illinois.
 Contract Surg. Polk Duncan Brown, of Tennessee.
 Contract Surg. Joseph Pinquard, of Kansas.
 Contract Surg. Harrison Warder Stuckey, of Ohio.
 Contract Surg. Everett Allen Anderson, of North Dakota.
 Contract Surg. Marion Fraser Marvin, of Florida.
 Contract Surg. Frederic Elmer Jenkins, of Maryland.
 Contract Surg. John Michael Hewitt, of Pennsylvania.
 Contract Surg. Ernest Eugene Roberts, of Iowa.
 Contract Surg. Frank Suggs, of Arkansas.
 Contract Surg. William Eugene Hall, of Missouri.
 Contract Surg. James Rudolph Mount, of Kansas.
 Contract Surg. Edgar James Farrow, of California.
 Contract Surg. George B. Jones, of Indiana.
 Contract Surg. Albion McDowell Coffey, of Missouri.
 Contract Surg. W. Church Griswold, of New York.
 Contract Surg. Herbert William Yemans, of New York.
 Contract Surg. John MacIntosh Shepherd, of New York.
 Contract Surg. Edward H. Jordan, of Colorado.
 Contract Surg. Robert Lemmon, of Virginia.
 Contract Surg. George Elliot Chamberlain, of Vermont.
 Contract Surg. Luis G. de Quevedo, of Porto Rico.
 Contract Surg. Thomas Carl Walker, of North Carolina.
 Contract Surg. Henry C. Bierbower, of Pennsylvania.
 Contract Surg. Oswald Frederick Henning, of Illinois.
 Contract Surg. Hermon Erwin Hasseltine, of Vermont.
 Contract Surg. George French Campbell, of Wyoming.
 Contract Surg. William H. Myers, of Kentucky.
 Contract Surg. Charles H. Halliday, of Illinois.
 Contract Surg. Charles Travis Dulin, of Washington.
 Contract Surg. Leon Carre Garcia, of Missouri.
 Contract Surg. Samuel Brown McPheeters, of Missouri.
 Contract Surg. Clarence Cameron Kress, at large.
 Contract Surg. George Thomas Tyler, of New York.
 Contract Surg. Charles W. Cullen, of Ohio.
 Contract Surg. Daniel Warwick Harmon, of Virginia.
 Contract Surg. George W. Cook, of Pennsylvania.
 Contract Surg. Edgar Clyde Jones, of Ohio.
 Contract Surg. George Philip Stallman, of New York.
 Contract Surg. Fred J. Conzelmann, of New York.
 Contract Surg. Herbert Cody Woolley, of New York.

Contract Surg. Edmund William Bayley, of Minnesota.
 Contract Surg. Andrew Victor Stephenson, of Nebraska.
 Contract Surg. Daniel Parker Card, of New York.
 Contract Surg. Raphael John Wren, of Ohio.
 Contract Surg. Sylvester Francis O'Day, of New York.
 Contract Surg. Lee Roy Dunbar, of New York.
 Contract Surg. George Trotter-Tyler, of Kentucky.
 Contract Surg. Arthur C. Delacroix, of New York.
 Contract Surg. Harlow Comstock McLeod, of New York.
 Contract Surg. Henry Freeman Lincoln, of Missouri.
 Contract Surg. William Hope Smith, of Texas.
 Contract Surg. Herbert Lentz Freeland, of Illinois.
 Contract Surg. Chauncey Leonard Chase, of Indiana.
 Contract Surg. Arnold Dwight Tuttle, of New York.
 Contract Surg. Charles Arthur Tetrault, of Massachusetts.
 Contract Surg. Dayton Carroll Wiggins, of New Hampshire.
 Contract Surg. William Meade Archer, Jr., of Virginia.
 Contract Surg. James Connallin Magee, of Pennsylvania.
 Contract Surg. Elsworth Wilson, of Oklahoma.
 Contract Surg. Howard Priest, of Pennsylvania.
 Contract Surg. Percy G. Drake, of the District of Columbia.
 Contract Surg. James I. Thorne, at large.
 Contract Surg. Joseph Edward Bastion, of Massachusetts.
 Contract Surg. Henry Reuben Weston, of Vermont.
 Contract Surg. George Gorgas Craig, of Illinois.
 Contract Surg. William Henry Pomeroy, of Massachusetts.
 Contract Surg. Zotique Rousseau, of New York.
 Contract Surg. Julian Augustus Mead, of Massachusetts.
 Contract Surg. William Hull Ramsey, of Nebraska.
 Contract Surg. Samuel C. Stanton, of Illinois.
 Contract Surg. Carlisle F. Ferrin, of Connecticut.
 William Richard Dear, of the District of Columbia.
 Eben Clayton Hill, of Maryland.
 Armin Mueller, of Wisconsin.
 Rozier Clagett Bayly, of Virginia.

To be first lieutenants, with rank from September 14, 1908.

Henry Clay Coburn, of the District of Columbia.
 John Brockenbrough Harvie Waring, of Virginia.
 Charles Edward Doerr, of Ohio.
 Frederick Starr Wright, of New York.
 Ralph Harvard Goldthwaite, of Massachusetts.
 Donald Miner, of New Jersey.
 Robert William Kerr, of Rhode Island.
 Norman Lincoln McDiarmid, of Ohio.
 James Arthur Wilson, of Michigan.
 Addison Dimmitt Davis, of South Dakota.
 Corydon Goodrich Snow, of Illinois.
 Morrison Clay Stayer, of Pennsylvania.
 George Dawson Heath, Jr., of South Carolina.
 Richard Augustine Kearny, of Louisiana.
 Alexander Dwight Parce, of Missouri.
 Henry Fuller Philips, of Texas.
 Thomas James Leary, of Pennsylvania.
 William Stephens Shields, of Pennsylvania.
 George Hudson McLellan, of Ohio.
 Clarence Elmer Fronk, of Missouri.

To be first lieutenants, with rank from September 23, 1908.

Howard Andrew Knox, of Massachusetts.
 Ralph Waldo Newton, of Massachusetts.
 Nelson Walton Wilson, of New York.
 Edgar Robinson McGuire, of New York.

To be first lieutenants, with rank from September 25, 1908.

James Clinton Ballard, of Mississippi.
 James Edward Maloney, of New York.
 Thomas Madden Foley, of the District of Columbia.

To be first lieutenants, with rank from September 29, 1908.

Joseph August Pargon, of Oregon.
 Maurice Buchsbaum, of Oklahoma.

To be first lieutenants, with rank from September 30, 1908.

Frank Salter Nicholson, of Nebraska.
 Charles D. W. Colby, of North Carolina.
 Charles Allen Betts, of Washington.
 Ziba Lindley Henry, of Ohio.
 Walter Fundenberg Leech, of West Virginia.

To be first lieutenant, with rank from October 2, 1908.

James Andrew Egan, of Illinois.

To be first lieutenant, with rank from October 5, 1908.

Lester Winslow Lord, of New Hampshire.

To be first lieutenant, with rank from October 27, 1908.

William Ward Plummer, of New York.

To be first lieutenants, with rank from October 31, 1908.

Edmund Douglas Shortlidge, of Delaware.
 Llewellyn Powell Williamson, of Missouri.
 John Ryan Devereux, of the District of Columbia.
 Walter Clifford Chidester, of Ohio.
 Reynold Marvin Kirby-Smith, of Tennessee.
 Samuel Ernest Lambert, of Alabama.
 James Franklin Edwards, of Pennsylvania.
 William Evans Richards, of Mississippi.
 Edward Warwick Pinkham, of Massachusetts.
 Clarence Beacom Millhoff, of Pennsylvania.
 Howard Walter Beal, of Maine.
 Jerome Stuart Chaffee, of New York.

CHAPLAINS.

To be chaplains with the rank of first lieutenant.

WITH RANK FROM JUNE 9, 1908.

Rev. Walter Kenyon Lloyd, of Arkansas, to fill an original vacancy.

Rev. Clinton Herby Snyder, of Ohio, to fill an original vacancy.

Rev. Frederick Lawrence Kunnecke, of Maryland, to fill an original vacancy.

Rev. Edward Russell Chase, of Maine, to fill an original vacancy.

Rev. Laurence Leo Denning, of Ohio, to fill an original vacancy.

Rev. Michael Gabriel Doran, of New York, to fill an original vacancy.

WITH RANK FROM JUNE 29, 1908.

Rev. Stephen Richard Wood, of California, vice Steward, Twenty-fifth Infantry, retired from active service.

WITH RANK FROM SEPTEMBER 22, 1908.

Rev. Stanley Clayton Ramsden, of New Jersey, vice Brockmann, Twenty-seventh Infantry, resigned.

CAVALRY ARM.

To be second lieutenants, with rank from September 25, 1908.

Herbert Hamlin White, of Idaho.
 Chauncey St. Claire McNeill, of West Virginia.
 John Pullman, of New York.
 Frank Keet Ross, of Pennsylvania.
 Herman Kobbé, of California.
 John Ashley Warden, of Texas.
 John Caffery Walker, jr., of Texas.
 Victor McDowell Whitside, of the District of Columbia.

FIELD ARTILLERY.

To be second lieutenants, with rank from September 25, 1908.

Edward Postell King, jr., of Georgia.
 Kenneth Sheild Perkins, of Virginia.
 Robert George Kirkwood, of Illinois.
 Harold Everett Marr, of Maine.
 Joseph Wright Rumbough, of Virginia.
 William McCleave, of Montana.
 Allan Clay McBride, of Maryland.
 Joe Reese Brabson, of Tennessee.
 Leonard Craig Sparks, of Washington.
 John Alden Crane, of Maryland.
 Albert Kenny Craven Palmer, of Maine.
 Frederick Almyron Prince, of Illinois.
 Marshall Magruder, of the District of Columbia.
 Truby Cheney Martin, of Kansas.
 Wilbur Rogers, of Kansas.
 Louis Roberts Dougherty, of California.
 Samuel Roland Hopkins, of Maryland.
 Frederick Warren Stewart, at large.
 Joseph Taylor Clement, of Florida.

COAST ARTILLERY CORPS.

To be second lieutenants, with rank from June 9, 1908.

Robert Ross Welshimer, of Illinois, late midshipman, United States Navy.

William Whinery Hicks, of Alabama, late midshipman, United States Navy.

To be second lieutenants, with rank from July 1, 1908.

Eugene Bonfils Walker, of California, late midshipman, United States Navy.

To be second lieutenants, with rank from September 4, 1908.

Louis David Pepin, of Minnesota.
 Karl F. Baldwin, of Ohio.
 Charles Kleber Wing, jr., of North Dakota.
 Robert Octavious Edwards, of Virginia.

Everett Martin Balcom, of New Hampshire.
 Guy Agard Mix, of New York.

To be second lieutenants, with rank from September 25, 1908.

John Henry Pirie, of Texas.
 George Rothwell Norton, of Massachusetts.
 Eugene Reybold, of Delaware.
 Wilmot Alfred Danielson, of Iowa.
 Hugo Ernest Pitz, of Iowa.
 Thomas Clair Cook, of Ohio.
 Olin Harrington Longino, of Georgia.
 Peter Hill Ottosen, of Iowa.
 Edgar Hall Thompson, of Rhode Island.
 Samuel Harvey McLeary, of Porto Rico.
 John Norton Reynolds, of the District of Columbia.
 Lewis Edward Goodier, jr., of New York.
 Rufus Foote Maddux, of Kentucky.
 Herbert Austin McCune, of Iowa.
 Lincoln Beaumont Chambers, of Oregon.
 Willis Craig Knight, of Washington.
 John Robert Ellis, of Arkansas.
 John Mather, of Connecticut.
 Chester Raymond Snow, of New Jersey.
 Robert Emmett Mason Goolrick, of Virginia.
 Walter Putney Boatwright, of Virginia.
 John Piper Smith, of Pennsylvania.
 Harry Read Vaughan, of Georgia.
 Abney Payne, of West Virginia.
 Edwin Kennedy Smith, of Tennessee.
 Clarence Talmage Marsh, of North Carolina.
 John Blackwell Maynard, of Virginia.
 Isaac Edwin Titus, of Ohio.
 Jacob Frank, of Vermont.
 Warren Reigle Bell, of Pennsylvania.
 Arthur Griffith Campbell, of Virginia.
 John Thomas Rowe, of Virginia.
 Frederick Le Roy Martin, of Indiana.

To be second lieutenant, with rank from October 1, 1908.

Sergt. Harold Lincoln Gardiner, One hundred and ninth Company, Coast Artillery Corps.

INFANTRY ARM.

To be second lieutenant, with rank from June 9, 1908.

Alva Lee, of Wyoming, late midshipman, United States Navy.

To be second lieutenants, with rank from September 4, 1908.

Robert Henry Willis, jr., of South Carolina.
 Charles Elting Coates, of Pennsylvania.

To be second lieutenants, with rank from September 25, 1908.

Martin Conrad Shallenberger, of Nebraska.
 William Baldrige Loughborough, at large.
 James Wallace Peyton, of Virginia.
 Oral Eugene Clark, of Michigan.
 Robert Coker, of Massachusetts.
 Marcel Selby Keene, of Maryland.
 William Ferguson Hoey, jr., of Delaware.
 John Hale Stutesman, of Indiana.
 William Willis Boddie, of North Carolina.
 William Gladstone Langwill, of Iowa.
 James Anthony Sarratt, of South Carolina.
 Frank Melvin Kennedy, of Illinois.
 John Thomas Harris, of West Virginia.
 Albert Sidney Johnston Tucker, of Virginia.
 Marion Ogilvie French, of New York.
 George William Carlyle Whiting, of Virginia.
 George Robbins Simpson, of Virginia.
 Charles Winslow Elliott, of Minnesota.
 James Douglas Rivet, of Massachusetts.
 George Richard Koehler, of New Jersey.
 James Alfred Merritt, of Maryland.
 Oliver Seth Wood, of Arkansas.
 Alexander Warner Cleary, of New York.
 Allen Mitchell Burdett, of Georgia.
 Herbert Clarence Fooks, of Maryland.
 John Register Emory, jr., of Virginia.
 Jacob Herman Rudolph, of Wisconsin.
 Elbe Allen Lathrop, of Minnesota.
 Raymond Ceward Baird, of Iowa.
 Matthew Addison Palen, of California.

PROMOTION IN THE NAVY.

Rear-Admiral Newton E. Mason, U. S. Navy, to be chief of the Bureau of Ordnance in the Department of the Navy, with the rank of rear-admiral, for a term of four years from January 9, 1909.

POSTMASTERS.

CALIFORNIA.

John M. Jolley to be postmaster at Oceansi, Cal.
 James G. Mason to be postmaster at Menlo Park, Cal.
 Oscar L. Meek to be postmaster at Marysville, Cal.
 Esther Murphy to be postmaster at Alhambra, Cal.
 Frederick B. Nichols to be postmaster at McCloud, Cal.
 Nellie Pellet to be postmaster at Brawley, Cal.
 J. H. Williams to be postmaster at Compton, Cal.

CONNECTICUT.

John W. Cook to be postmaster at Beacon Falls, Conn.
 Alexander B. Gardner to be postmaster at Milford, Conn.
 Harvey S. Halligan to be postmaster at Seymour, Conn.
 Nelson R. Jessup to be postmaster at Stamford, Conn.
 William L. Judson to be postmaster at Woodbury, Conn.
 William H. Kelsey to be postmaster at Clinton, Conn.
 Giles P. Lecrenier to be postmaster at Moodus, Conn.
 Charles H. Taylor to be postmaster at Georgetown, Conn.

ILLINOIS.

John F. Ashwill to be postmaster at Toledo, Ill.
 Henry C. Bogue to be postmaster at Vermont, Ill.
 Theodore Boltensern to be postmaster at Cambridge, Ill.
 Orange L. Campbell to be postmaster at Knoxville, Ill.
 Frank J. Chapman to be postmaster at McLeansboro, Ill.
 Albert S. Corl to be postmaster at North Crystal Lake, Ill.
 (late Munda).

Joel W. Ellis to be postmaster at Seneca, Ill.

John Holliday to be postmaster at Kirkwood, Ill.
 Henry C. Jones to be postmaster at Marion, Ill.
 William A. Kelly to be postmaster at West Frankfort, Ill.
 Warren J. Lincoln to be postmaster at Mount Pulaski, Ill.
 Robert L. Lutton to be postmaster at Clifton, Ill.
 Henry P. Miller to be postmaster at Cobden, Ill.
 Robert J. Morray to be postmaster at Creal Springs, Ill.
 Edgar Rodee to be postmaster at Prophetstown, Ill.
 Fred W. Pattee to be postmaster at Elburn, Ill.
 Paul P. Shutt to be postmaster at Paris, Ill.
 Frederick J. Simater to be postmaster at Minonk, Ill.
 William L. Spear to be postmaster at Rankin, Ill.
 J. W. Thompson to be postmaster at Granite City, Ill.
 Charles G. Watrous to be postmaster at Waukegan, Ill.

IOWA.

Martin A. Aasgaard to be postmaster at Lake Mills, Iowa.
 Carlos G. Aldrich to be postmaster at Schaller, Iowa.
 George Banger to be postmaster at Laporte City, Iowa.
 Charles O. Barry to be postmaster at Walker, Iowa.
 Edgar O. Beanblossom to be postmaster at Whiting, Iowa.
 Dennis Bittner to be postmaster at Olin, Iowa.
 William L. Comstock to be postmaster at Mechanicsville,
 Iowa.

Hans Evenson to be postmaster at Calmar, Iowa.
 Fred J. Fearis to be postmaster at Richland, Iowa.
 John H. Hunt to be postmaster at Allison, Iowa.
 J. E. T. Johnson to be postmaster at Gowrie, Iowa.
 Louis N. Kramer to be postmaster at McGregor, Iowa.
 Frank J. Mann to be postmaster at Burt, Iowa.
 John C. Meredith to be postmaster at Allerton, Iowa.
 A. W. Sleeper to be postmaster at Sheldon, Iowa.
 Lewis W. Sley to be postmaster at Oxford Junction, Iowa.
 Charles Smith to be postmaster at Clarence, Iowa.
 Charles M. Stevens to be postmaster at Williams, Iowa.
 L. H. Surber to be postmaster at Indianola, Iowa.
 Frank J. Tishenbanner to be postmaster at Gilmore City,
 Iowa.

W. H. Vance to be postmaster at Winterset, Iowa.

KENTUCKY.

Charles Cowell to be postmaster at Earlington, Ky.
 H. G. Hicks to be postmaster at Olive Hill, Ky.
 John D. Littlejohn to be postmaster at Grayson, Ky.
 John W. Shields to be postmaster at Williamstown, Ky.

MAINE.

Edward B. Buck to be postmaster at Foxcroft, Me.
 Freeman D. Dearth to be postmaster at Dexter, Me.
 Charles B. Haskell to be postmaster at Pittsfield, Me.
 Charles A. Lang to be postmaster at Harrison, Me.
 Frank W. Mallett to be postmaster at Fort Kent, Me.
 Charles F. Plumly to be postmaster at Lincoln, Me.

MASSACHUSETTS.

Samuel Atwell to be postmaster at Kingston, Mass.
 James S. Burbank to be postmaster at Mattapoisett, Mass.
 Eunice Agnes Burtch to be postmaster at Sheffield, Mass.

Asa B. Fay to be postmaster at Northboro, Mass.
 Harrison V. Hall to be postmaster at Wrentham, Mass.
 George E. Ricker to be postmaster at Merrimac, Mass.
 Joseph C. Sheehan to be postmaster at East Bridgewater,
 Mass.

Charles J. Shepard to be postmaster at Waltham, Mass.
 Osgood L. Small to be postmaster at Sagamore, Mass.
 George M. Solomon to be postmaster at Hinsdale, Mass.
 Elmer Standley to be postmaster at Beverly Farms, Mass.
 Marie E. White to be postmaster at South Hadley, Mass.
 William F. Wiley to be postmaster at Peabody, Mass.

MICHIGAN.

Eber S. Andrews to be postmaster at Williamston, Mich.
 Stuart Beatty to be postmaster at Utica, Mich.
 Thomas H. Berryman to be postmaster at Mohawk, Mich.
 Charles M. Butler to be postmaster at Morenci, Mich.
 Theron D. Childs to be postmaster at Three Oaks, Mich.
 David J. Evans to be postmaster at Millington, Mich.
 Charles W. Glover to be postmaster at Bear Lake, Mich.
 Jens Hemingsen to be postmaster at Grant, Mich.
 A. M. Humphrey to be postmaster at Saline, Mich.
 William F. Johnston to be postmaster at Roscommon, Mich.
 Christopher C. Smith to be postmaster at Algonac, Mich.
 William Trevarthen to be postmaster at South Range, Mich.

MINNESOTA.

Marion G. Crawford to be postmaster at Lakefield, Minn.
 F. E. Toomey to be postmaster at Scanlon, Minn.
 James Walker to be postmaster at Ellsworth, Minn.

MISSOURI.

Henry A. Herkstroeter to be postmaster at Washington, Mo.
 John W. Key to be postmaster at Mountain Grove, Mo.
 Iola W. Morsey to be postmaster at Warrenton, Mo.
 William F. Norris to be postmaster at Perry, Mo.
 George Stoolfer to be postmaster at Skidmore, Mo.
 James A. Williams to be postmaster at Crane, Mo.
 Edwin W. Pritchett to be postmaster at Martinsburg, Mo.

NEVADA.

Herbert Badt to be postmaster at Wells, Nev.
 Jessie E. Burnett to be postmaster at McGill (late Smelter),
 Nev.
 George C. Fetterman to be postmaster at Caliente, Nev.
 Fred L. Littell to be postmaster at Yerington, Nev.

NEW HAMPSHIRE.

Joseph H. Avery to be postmaster at Milton, N. H.
 E. Bertram Pike to be postmaster at Pike, N. H.

NEW MEXICO.

Robert Kellahin to be postmaster at Roswell, N. Mex.
 Ira O. Wetmore to be postmaster at Carrizozo, N. Mex.

OREGON.

John E. Loggan to be postmaster at Burns, Oreg.
 Land B. Rutherford to be postmaster at Rainier, Oreg.
 Ben Weathers to be postmaster at Enterprise, Oreg.

RHODE ISLAND.

Nathaniel H. Brown to be postmaster at East Greenwich, R. I.
 Hulda J. Fessenden to be postmaster at Saylesville, R. I.
 Edward W. Jones to be postmaster at River Point, R. I.

VERMONT.

Lyman P. Bailey to be postmaster at Putney, Vt.

VIRGINIA.

William S. Gregory, jr., to be postmaster at Drakes Branch, Va.
 Frederick I. Hammer to be postmaster at Keysville, Va.
 R. L. Hervey to be postmaster at Chase City, Va.
 Frank D. Lumpkin to be postmaster at Danville, Va.
 Harry A. Sager to be postmaster at Herndon, Va.
 E. T. Sproles to be postmaster at Clinchport, Va.
 B. P. Wall to be postmaster at Pine Beach, Va.

WEST VIRGINIA.

J. W. Edwards to be postmaster at Welch, W. Va.

WISCONSIN.

Altie B. Barnard to be postmaster at Redgranite, Wis.
 Fred A. Brandt to be postmaster at Sparta, Wis.
 John L. Extrom to be postmaster at Tomahawk, Wis.
 Isa Faulds to be postmaster at Arcadia, Wis.
 Ray Haggerty to be postmaster at Park Falls, Wis.
 Robert Johnson to be postmaster at Mellen, Wis.
 Asenath A. Kasson to be postmaster at Mattoon, Wis.
 George E. King to be postmaster at Winneconne, Wis.
 William Knelling to be postmaster at Shullsburg, Wis.
 Judson L. Marvin to be postmaster at Mauston, Wis.
 Thomas Stout, jr., to be postmaster at Clear Lake, Wis.

HOUSE OF REPRESENTATIVES.

MONDAY, December 14, 1908.

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. Henry N. Couden, D. D.

The Journal of the proceedings of Saturday was read and approved.

HOLIDAY RECESS.

Mr. PAYNE. Mr. Speaker, I offer the following resolution.

The SPEAKER. The gentleman from New York offers a resolution, which the Clerk will report.

The Clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Saturday, December 19, they stand adjourned until 12 o'clock m., Monday, January 4, 1909.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken, and the resolution was agreed to.

CONSPIRACY AGAINST ALIENS.

Mr. PAYNE. Mr. Speaker, a parliamentary inquiry. I desire to inquire if the matter pending on Saturday is in order now?

The SPEAKER. It is unfinished business and in order.

Mr. PAYNE. Mr. Speaker, I move that it lie on the table.

The SPEAKER. The gentleman from New York moves that the appeal taken by the gentleman from Missouri [Mr. DE ARMOND] to the ruling of the Chair do lie on the table.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. DE ARMOND. Division, Mr. Speaker.

The House divided; and there were—ayes 117, noes 87.

Mr. DE ARMOND. The yeas and nays, Mr. Speaker.

The yeas and nays were ordered.

The question was taken; and there were—yeas 170, nays 98, answered "present" 12, not voting 110, as follows:

YEAS—170.

Acheson	Ellis, Mo.	Kahn	Parker
Allen	Ellis, Oreg.	Keifer	Parsons
Ames	Englebright	Kennedy, Iowa	Payne
Anthony	Esch	Kennedy, Ohio	Pearre
Bannon	Fassett	Kinkaid	Perkins
Barchfeld	Foss	Kitchin, Claude	Pollard
Bartlett, Ga.	Foster, Ind.	Knapp	Pray
Bates	Foster, Vt.	Knopf	Reid
Beale, Pa.	Foulkrod	Knowland	Reynolds
Bede	French	Küstermann	Roberts
Bingham	Fuller	Langley	Rodenberg
Birdsall	Gaines, W. Va.	Lawrence	Russell, Tex.
Bonyng	Gardner, Mass.	Lindbergh	Scott
Boutell	Garner	Longworth	Sherley
Bradley	Gilham	Loud	Slemp
Brownlow	Gillet	Loudenslager	Smith, Cal.
Burke	Goebel	Lovering	Smith, Iowa
Burton, Del.	Graham	Lowden	Smith, Mich.
Butler	Greene	McCall	Southwick
Calderhead	Grona	McCreary	Sperry
Campbell	Guernsey	McGavin	Stafford
Capron	Haggott	McGuire	Stevens, Minn.
Caulfield	Hamilton, Mich.	McKinlay, Cal.	Sturgis
Chaney	Hammond	McKinley, Ill.	Sulloway
Chapman	Harding	McKinney	Swasey
Cole	Haskins	McLachlan, Cal.	Tawney
Cook, Colo.	Haugen	McLaughlin, Mich.	Taylor, Ohio
Cooper, Pa.	Hawley	McMorran	Thistlewood
Cooper, Wis.	Hayes	Macon	Thomas, Ohio
Crumpacker	Henry, Conn.	Madison	Tirrell
Currier	Hepburn	Mann	Townsend
Cushman	Higgins	Marshall	Volstead
Dalzell	Holliday	Martin	Washburn
Darragh	Howell, N. J.	Moon, Pa.	Webb
Davidson	Howland	Moon, Tenn.	Weeks
Davis, Minn.	Hubbard, Iowa	Moore, Pa.	Weems
Dawson	Hubbard, W. Va.	Morse	Wheeler
Denby	Hull, Iowa	Murdock	Williams
Douglas	Humphrey, Wash.	Nelson	Wilson, Ill.
Draper	Humphreys, Miss.	Nye	Woodward
Driscoll	James, Addison D.	Olcott	Young
Durey	Jenkins	Overstreet	
Edwards, Ky.	Jones, Wash.	Padgett	

NAYS—98.

Adair	De Armond	Hamlin	Lever
Ansberry	Denver	Hardwick	Livingston
Ashbrook	Dixon	Hardy	Lloyd
Barnhart	Ellerbe	Harrison	McDermott
Bartlett, Nev.	Estopinal	Hay	Maynard
Bell, Ga.	Ferris	Hellin	Moore, Tex.
Booher	Finley	Helm	Murphy
Brodhead	Fitzgerald	Henry, Tex.	Nicholls
Broussard	Floyd	Hobson	Page
Brundidge	Foster, Ill.	Houston	Patterson
Caldwell	Fulton	Hughes, N. J.	Peters
Candler	Gaines, Tenn.	James, Ollie M.	Pujo
Carlin	Garrett	Johnson, S. C.	Raney
Carter	Gillespie	Jones, Va.	Randell, Tex.
Clark, Mo.	Godwin	Kipp	Rauch
Cox, Ind.	Gordon	Kitchin, Wm. W.	Richardson
Craig	Goulden	Lamb	Robinson
Cravens	Hackney	Lassiter	Rothermel
Davenport	Hamilton, Iowa	Lenahan	Rucker

Russell, Mo.
Ryan
Sabath
Saunders
Shackelford
Sheppard

Sherwood
Sims
Slayden
Smith, Mo.
Smith, Tex.
Sparkman

Stanley
Stephens, Tex.
Taylor, Ala.
Thomas, N. C.
Tou Velle
Underwood

Wallace
Watkins
Weisse
Wilson, Pa.

ANSWERED "PRESENT"—12.

Adamson
Alexander, Mo.
Bennet, N. Y.

Brantley
Clayton
Glass

Howard
Hull, Tenn.
Kimball

Lee
Sherman
Talbot

NOT VOTING—110.

Aiken
Alexander, N. Y.
Andrus
Barclay
Bartholdt
Beall, Tex.
Bennett, Ky.
Bowers
Boyd
Brumm
Burgess
Burleigh
Burleson
Burnett
Burton, Ohio
Byrd
Calder
Cary
Cassel
Clark, Fla.
Cockran
Cocks, N. Y.
Conner
Cook, Pa.
Cooper, Tex.
Coudrey
Cousins
Crawford

Davey, La.
Dawes
Diekema
Dwight
Edwards, Ga.
Fairchild
Favrot
Flood
Focht
Foelker
Fordney
Fornes
Fowler
Gardner, Mich.
Gardner, N. J.
Gill
Goldfogle
Graff
Granger
Gregg
Griggs
Hackett
Hale
Hall
Hamill
Hill, Conn.
Hill, Miss.
Hinshaw

Hitchcock
Howell, Utah
Huff
Hughes, W. Va.
Jackson
Johnson, Ky.
Keliher
Lafean
Lamar, Fla.
Lamar, Mo.
Landis
Laning
Law
Leake
Legare
Lewis
Lilley
Lindsay
Lorimer
McHenry
McLain
McMillan
Madden
Malby
Miller
Mondell
Mouser
Mudd

Needham
Norris
O'Connell
Olmsted
Porter
Pou
Pratt
Prince
Ransdell, La.
Reeder
Rhinoek
Riordan
Small
Snapp
Spight
Steenerson
Sterling
Sulzer
Vreeland
Waldo
Wanger
Watson
Wiley
Willett
Wolf
Wood

So the appeal was laid on the table.

The following pairs were announced:

For this session:

Mr. WANGER with Mr. ADAMSON.

Mr. BENNET of New York with Mr. FORNES.

Mr. SHERMAN with Mr. RIORDAN.

Until further notice:

Mr. PORTER with Mr. AIKEN.

Mr. ALEXANDER of New York with Mr. BEALL of Texas.

Mr. ANDRUS with Mr. ALEXANDER of Missouri.

Mr. BURTON of Ohio with Mr. BURGESS.

Mr. DWIGHT with Mr. BURNETT.

Mr. COCKS of New York with Mr. BYRD.

Mr. DAWES with Mr. COCKRAN.

Mr. FOCHT with Mr. COOPER of Texas.

Mr. FORDNEY with Mr. CRAWFORD.

Mr. GARDNER of New Jersey with Mr. DAVEY of Louisiana.

Mr. GRAFF with Mr. FLOOD.

Mr. HALE with Mr. GILL.

Mr. HILL of Connecticut with Mr. GRANGER.

Mr. HINSHAW with Mr. GLASS.

Mr. HOWELL of Utah with Mr. GREGG.

Mr. HUGHES of West Virginia with Mr. HACKETT.

Mr. LAFEAN with Mr. HAMILL.

Mr. LANDIS with Mr. HITCHCOCK.

Mr. LANING with Mr. JOHNSON of Kentucky.

Mr. McMILLAN with Mr. KELIHER.

Mr. MADDEN with Mr. LEAKE.

Mr. MALBY with Mr. LEWIS.

Mr. MILLER with Mr. KIMBALL.

Mr. MONDELL with Mr. LINDSAY.

Mr. MOUSER with Mr. McLAIN.

Mr. NEEDHAM with Mr. O'CONNELL.

Mr. NORRIS with Mr. LEE.

Mr. OLMSTED with Mr. POU.

Mr. PRINCE with Mr. PRATT.

Mr. REEDER with Mr. RANSDELL of Louisiana.

Mr. SNAPP with Mr. RHINOEK.

Mr. STEENERSON with Mr. SMALL.

Mr. STERLING with Mr. SPIGHT.

Mr. VREELAND with Mr. SULZER.

Mr. WATSON with Mr. WILLETT.

Mr. FOELKER with Mr. WILEY.

Mr. HALL with Mr. WOLF.

Mr. GARDNER of Michigan with Mr. BOWERS.

Mr. BARTHOLDT with Mr. GOLDFOGLE.

Mr. COUSINS with Mr. HOWARD.

Mr. CALDER with Mr. FAVROT.

Mr. COOK of Pennsylvania with Mr. HULL of Tennessee.

Mr. COUDREY with Mr. GRIGGS.

Mr. DIEKEMA with Mr. CLARK of Florida.

Mr. FAIRCHILD with Mr. LAMAR of Florida.

Mr. CONNER with Mr. LEGARE.

Mr. BURLEIGH with Mr. BRANTLEY.
 Mr. MUDD with Mr. TALBOTT.
 Mr. HUFF with Mr. CLAYTON.
 For the balance of the day:
 Mr. LORIMER with Mr. HILL of Mississippi.
 Mr. LAW with Mr. LAMAR of Missouri.
 Mr. WALDO with Mr. McHENRY.
 Mr. CARY with Mr. EDWARDS of Georgia.

The result of the vote was then announced as above recorded.
 Mr. KEIFER. Mr. Speaker, I ask unanimous consent to be allowed to print in the RECORD some remarks, less than ten minutes in length of delivery, on this question which is just laid on that table.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

DEALING IN FUTURES.

Mr. HENRY of Texas. Mr. Speaker, I desire to renew the request I made the other day for a change of reference of a bill. It is the bill (H. R. 22338) to prohibit dealing in future contracts on agricultural products by forbidding the use of mail and interstate commerce facilities and to prevent sending fictitious prices made on exchanges. I made this request the other day, and the gentleman from Nebraska [Mr. POLLARD] asked me to let it go over. This is a very important matter, and last session, my recollection is, it was referred to the Committee on the Judiciary. I have made a few mere verbal changes, adding a new section as well, and I desire that the reference of this bill be changed from the Committee on Agriculture to the Committee on the Judiciary.

The SPEAKER. The gentleman asks unanimous consent for change of reference of the bill indicated from the Committee on Agriculture to the Committee on the Judiciary.

Mr. POLLARD. Mr. Speaker, since the gentleman called the bill up the other day I have taken occasion to look over the files of our committee, and I find the Committee on Agriculture has four or five bills dealing with this same subject, and in view of that fact and the further fact, as I am informed by the chairman of the committee, that the Committee on Agriculture expects to take up this question and have hearings on the merits of the proposition, I am inclined to object.

Mr. HENRY of Texas. Now, if the gentleman will withhold his objection just a minute, and will give me assurance that there shall be hearings on this bill and kindred measures during this session, or some time, I have no objection to letting it go. All I am anxious for is that there shall be hearings on the subject-matter of the legislation.

The SPEAKER. The gentleman from Nebraska objects.

RESIGNATION OF COMMITTEE ASSIGNMENTS.

The SPEAKER laid before the House the following personal requests:

Mr. HIGGINS asks to be excused from further service on the Committee on Industrial Arts and Expositions.

HOUSE OF REPRESENTATIVES,
 Washington, December 14, 1908.

To the Speaker of the House of Representatives:

I hereby resign from the Committee on Naval Affairs.

I have the honor to be,
 Yours, respectfully,

W. W. KITCHIN.

HOUSE OF REPRESENTATIVES,
 Washington, December 14, 1908.

To the Speaker of the House of Representatives:

I hereby tender my resignation as a member of the Committees on Indian Affairs and on Elections No. 3.

I have the honor to be,
 Respectfully, yours,

CLAUDE KITCHIN.

The SPEAKER. Without objection these gentlemen are excused from further service on those committees.

COMMITTEE ASSIGNMENTS.

The SPEAKER. The Chair announces the following committee assignments.

The Clerk read as follows:

Mr. CASSELL, Committee on Accounts and Committee on Militia.
 Mr. GUERNSEY, Committee on Banking and Currency and Committee on the Territories.

Mr. SWASEY, Committee on the Merchant Marine and Fisheries and Committee on Revision of Laws.

Mr. FOELKER, Committee on the Census and Committee on Election of President, Vice-President, and Representatives in Congress.

Mr. MARTIN, Committee on Industrial Arts and Expositions.

Mr. WATSON, Committee on the Territories.

Mr. CLAUDE KITCHIN, Committee on Naval Affairs.

Mr. WILEY, Committee on Military Affairs and Committee on Militia.

AFFAIRS IN THE TERRITORIES.

The SPEAKER laid before the House the bill (H. R. 21957) relating to affairs in the Territories, with sundry Senate amendments.

Mr. HAMILTON of Michigan. Mr. Speaker, I move that the House disagree to the Senate amendments, and ask for a conference.

The motion was agreed to.

The Chair appointed as conferees on the part of the House Mr. HAMILTON of Michigan, Mr. CAPRON, and Mr. LLOYD.

EXPENDITURES UNDER THE DEPARTMENT OF STATE.

The SPEAKER laid before the House the following message from the President of the United States, which was read and, with accompanying papers, referred to the Committee on Expenditures in the State Department and ordered to be printed:

To the House of Representatives:

I transmit herewith a report by the Secretary of State, with accompanying paper, of expenditures under the Department of State for the fiscal year ended June 30, 1908, as required by law.

THEODORE ROOSEVELT.

THE WHITE HOUSE, December 14, 1908.

REPORT OF THE SECRETARY OF AGRICULTURE.

The SPEAKER also laid before the House the following message from the President of the United States, which was read and, with accompanying papers, referred to the Committee on Agriculture and ordered printed.

To the Senate and House of Representatives:

I transmit herewith the annual report of the Secretary of Agriculture covering the operations of the department for the year 1908.

THEODORE ROOSEVELT.

THE WHITE HOUSE, December 14, 1908.

THE BERNE COPYRIGHT CONVENTION.

The SPEAKER also laid before the House the following message from the President of the United States, which was read and, with accompanying papers, referred to the Committee on Patents and ordered printed.

To the Senate and House of Representatives:

I transmit herewith for the information of Congress a copy of the report by the register of copyrights of the Library of Congress on the proceedings of the International Congress for the Revision of the Berne Copyright Convention, held at Berlin, Germany, from October 14 to November 14, 1908, which Congress he attended as the delegate of the United States.

THEODORE ROOSEVELT.

THE WHITE HOUSE, December 14, 1908.

AFFAIRS IN PORTO RICO.

The SPEAKER also laid before the House the following message from the President of the United States, which was read and, with accompanying papers, referred to the Committee on Insular Affairs and ordered printed.

To the Senate and House of Representatives:

I transmit herewith a report from Mr. Robert Bacon, Assistant Secretary of State, and Maj. Frank McIntyre, U. S. Army, of their mission to Porto Rico, under my oral instructions, to meet with representatives of the insular government of Porto Rico and of the Roman Catholic Church in that island with a view to reaching some equitable settlement of the questions pending between that church on the one hand and the United States and the people of Porto Rico on the other.

The nature of these questions and the conditions of the controversy at the time of the meeting of the commission at San Juan are fully and clearly stated in the report, as is the basis for an equitable and complete settlement of all the questions in controversy unanimously agreed on by the members of the commission in a memorandum signed on August 12, 1908.

It will be seen that under the terms of this memorandum the United States is to pay to the Roman Catholic Church in Porto Rico the sum of \$120,000 in full settlement of all claims of every nature whatsoever relative to the properties claimed by the church which are now in the possession of the United States and which are defined in the report.

The properties specifically in question form part of the land reserved for military purposes in San Juan and are now occupied by United States troops. I am informed that they are well suited to such purposes, and that to provide for the garrison of San Juan elsewhere would require the expenditure of many times the sum involved in the proposed settlement.

This basis of agreement has received my entire approval, and I trust that the Congress will see the great importance of the matter and will, at its present session, pass such legislation as is necessary to give the basis of the agreement effect on the part of the United States.

The legislative assembly of Porto Rico has already, by a joint resolution approved September 16, 1908, ratified the basis of agreement recommended by the commissioners in so far as it affects that government, and enacted the necessary legislation to make it effective.

THEODORE ROOSEVELT.

MILITARY EDUCATION IN CIVIL INSTITUTIONS.

The SPEAKER also laid before the House the following message from the President of the United States, which was read and, with accompanying papers, referred to the Committee on Military Affairs and ordered printed.

To the Senate and House of Representatives:

I transmit herewith a communication from the Secretary of War submitting draft of a bill to promote military education in civil institutions of learning in the United States. I approve the recommendation of the Secretary of War and ask for its favorable consideration by the Congress.

THEODORE ROOSEVELT.

THE WHITE HOUSE, December 14, 1908.

PROMOTION OF RIFLE PRACTICE IN PUBLIC SCHOOLS, ETC.

The SPEAKER also laid before the House the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Military Affairs and ordered printed.

To the Senate and House of Representatives:

I transmit herewith a communication from the Secretary of War submitting draft of a bill to promote rifle practice in public schools, colleges, universities, and civilian rifle clubs. I approve the recommendation of the Secretary of War and ask for its favorable consideration by the Congress.

THEODORE ROOSEVELT.

THE WHITE HOUSE, December 14, 1908.

INTERNATIONAL TELEGRAPHIC UNION.

The SPEAKER also laid before the House the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Foreign Affairs and ordered printed.

To the Senate and House of Representatives:

I transmit to the Congress as a matter of public interest a copy of the report of the American delegates to the tenth conference of the International Telegraphic Union, which opened at the city of Lisbon, Portugal, on May 4, 1908.

THEODORE ROOSEVELT.

THE WHITE HOUSE, December 14, 1908.

DISTRICT OF COLUMBIA BUSINESS.

Mr. SMITH of Michigan. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of District business.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of District of Columbia business, with Mr. TOWNSEND in the chair.

TOBACCO LICENSE, DISTRICT OF COLUMBIA.

Mr. SMITH of Michigan. Mr. Chairman, I call up the bill (H. R. 16066) providing for the payment of an annual license tax by dealers in all forms of manufactured tobacco in the District of Columbia.

The bill was read, as follows:

Be it enacted, etc., That an annual license tax of \$12 is hereby imposed upon dealers in cigars, smoking or chewing tobacco, cigarettes, or any form of manufactured tobacco, the license year to begin November 1 and to terminate October 31 in each year.

Mr. SMITH of Michigan. Mr. Chairman, the report is so short and so fully explains the bill that I ask to have it read.

The report (by Mr. TAYLOR of Ohio) was read, as follows:

The Committee on the District of Columbia, to whom was referred the bill (H. R. 16066) providing for the payment of an annual license tax by dealers in all forms of manufactured tobacco in the District of Columbia, report the same back to the House with the recommendation that it do pass.

The license law now in force, found in paragraph 46 of section 7 of the act approved July 1, 1902, provides for an annual license tax of \$12 on "cigar dealers" only. The proposed legislation is intended to extend the same provision to dealers in "smoking or chewing tobacco, cigarettes, or any form of manufactured tobacco." This is the only change proposed in the law.

The bill as reported has the approval of the Commissioners of the District of Columbia, who ask for its passage, as appears by the following letter:

OFFICE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, January 28, 1908.

SIR: The Commissioners of the District of Columbia have the honor to transmit herewith a draft of a bill entitled "A bill providing for the payment of an annual license tax by dealers in all forms of manufactured tobacco in the District of Columbia," and recommend its early enactment.

The object of this bill is to extend the scope of liability for license tax to sell manufactured tobacco to dealers in all forms of that product. At present the license tax for tobacco selling is restricted to "cigar dealers," the annual charge for which is \$12, as reiterated in the proposed measure herewith submitted.

Very respectfully,

HENRY B. F. MACFARLAND,

President Board of Commissioners District of Columbia.

Hon. S. W. SMITH,

Chairman Committee on District of Columbia,
House of Representatives.

Mr. SMITH of Michigan. Mr. Chairman, unless there is some question, I ask for a vote.

Mr. MANN. Will the gentleman yield for a question?

Mr. SMITH of Michigan. I yield to the gentleman.

Mr. MANN. Have the committee considered the proposition of charging a higher license tax upon cigarette dealers than is charged upon cigar and other tobacco dealers?

Mr. SMITH of Michigan. I do not know that they specifically took that under consideration.

Mr. MANN. Of course the gentleman is aware that in some States of the Union the sale of cigarettes is absolutely prohibited, and in nearly all or many of the States and municipalities a high license tax is charged for the selling of ciga-

rettes. Now, here is a proposition to make it \$1 a month for the privilege of selling coffin nails.

Mr. SMITH of Michigan. That is \$12 a year higher than it was before.

Mr. MANN. That may be, but the subject is up.

Mr. SMITH of Michigan. Yes.

Mr. MANN. Why should it not be a great deal more than \$12 a year? It ought to be not less than \$12 a month. Every little establishment in Washington sells cigarettes and will under this.

Mr. WILSON of Illinois. Will the gentleman yield for a question?

Mr. SMITH of Michigan. Yes.

Mr. WILSON of Illinois. Have you ever considered the prohibition of the sale of cigarettes in the District of Columbia?

Mr. SMITH of Michigan. The District Committee have not considered it of late. At least the question has not been before us in that form.

Mr. WILSON of Illinois. Do not you think it would be a good idea for the committee to do that?

Mr. SMITH of Michigan. I have no doubt they would consider it if somebody would introduce a bill and bring it before us for consideration.

Mr. DAWSON. May I ask the gentleman a question?

Mr. SMITH of Michigan. Yes.

Mr. DAWSON. Is there any limitation as to the sale of cigarettes to minors, or boys under age, in the District of Columbia?

Mr. SMITH of Michigan. I do not recall the exact words of the statute at the moment, but I think there is such a provision. We can look it up and see.

Mr. MANN. Mr. Chairman, I move to strike out, in line 5, the word "cigarette" in order that I may offer another amendment, increasing the license tax upon cigarette dealers.

The CHAIRMAN. The Clerk will report the proposed amendment.

The Clerk read as follows:

In line 5, strike out the word "cigarettes."

The question was taken on the amendment, and the Chairman announced that the noes appeared to have it.

Mr. MANN. Division!

Pending the division,

Mr. BARTLETT of Georgia. May I ask the gentleman from Illinois why cigarette dealers should be exempted from paying this license?

Mr. MANN. The gentleman has evidently just come in. I stated that the proposition was to strike out, for the purpose of offering an amendment charging a higher license on cigarette dealers.

Mr. BARTLETT of Georgia. I did not hear the gentleman's statement. That is the reason I want to know. The gentleman proposes to make the license higher?

Mr. MANN. I propose to offer an amendment to make it much higher in case this amendment prevails.

Mr. BARTLETT of Georgia. I want to vote for that amendment if the gentleman will offer it.

Mr. MANN. Certainly.

Mr. CLARK of Missouri. Suppose you strike this out and then the committee votes down your amendment, where will you be?

Mr. DOUGLAS. No better off than we are now.

Mr. CLARK of Missouri. Why not offer an amendment combining the two propositions?

Mr. MANN. I am perfectly willing to do that. I ask leave to withdraw my amendment.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to withdraw his amendment. Is there objection? There was no objection.

Mr. MANN. And at the end of the bill as now printed I offer an amendment, which I ask the Clerk to report.

The Clerk read as follows:

Insert after line 7, on page 1, the following:

"That an annual license tax of \$100 is hereby imposed upon dealers in cigarettes, the license year to begin November 1 and to terminate October 31 in each year."

Mr. CLARK of Missouri. Mr. Chairman, I would like to have the Clerk read the part to be stricken out and then read the amendment.

The CHAIRMAN. The Chair is informed that there is no proposition to strike out anything in this amendment. It is an amendment to the end of the bill.

Mr. MANN. Of course, Mr. Chairman, if that amendment were adopted, that would strike out the word "cigarette" where it now stands.

Mr. WILSON of Illinois. Why not include also "cigarette papers?"

Mr. SMITH of Michigan. Does that include also striking out the word "cigarette?"

Mr. MANN. I will include in the amendment to strike out the word "cigarettes," although nobody makes the point of order on it, and insert the other amendment at the end of the section as now printed.

Mr. MACON. How about cigarette papers?

Mr. MANN. It has been suggested that the words "cigarette papers" ought to be added to the end after the word "cigarettes," so as to read "cigarettes or cigarette papers."

Mr. WILSON of Illinois. "And."

Mr. MANN. "Or" is the proper word. I ask unanimous consent that the words "or cigarette papers" be added after the word "cigarettes."

The CHAIRMAN. The gentleman asks unanimous consent that the words "or cigarette papers" may be added to his amendment. Is there objection?

There was no objection.

Mr. CLARK of Missouri. Mr. Chairman, I will ask the Clerk to read the amendment as it would now read if adopted.

The CHAIRMAN. Without objection, the Clerk will report the amendment.

The Clerk read as follows:

Strike out in line 5 the word "cigarettes" and add at the end of the bill the following:

"That an annual license tax of \$100 is hereby imposed upon dealers in cigarettes or cigarette papers, the license year to begin November 1 and to terminate October 31 in each year."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The question now recurs on laying the bill aside with a favorable recommendation.

The question was taken, and the bill was ordered to be laid aside with a favorable recommendation.

DISBURSING OFFICER, GOVERNMENT HOSPITAL FOR THE INSANE.

Mr. SMITH of Michigan. Mr. Chairman, I call up the bill (H. R. 12899) to provide for a disbursing officer for the Government Hospital for the Insane, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That section 4839 of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"Sec. 4839. The chief executive officer of the Government Hospital for the Insane shall be a superintendent, who shall be appointed by the Secretary of the Interior, shall be entitled to a salary of \$4,000 a year, and shall give bond for the faithful performance of his duties in such sum and with such securities as may be required by the Secretary of the Interior. The superintendent shall be a well-educated physician, possessing competent experience in the care and treatment of the insane; he shall reside on the premises and devote his whole time to the welfare of the institution; he shall, subject to the approval of the board of visitors, appoint a responsible disbursing agent for the institution, who shall give a bond satisfactory to the Secretary of the Interior, and said superintendent shall engage and discharge all needful and useful employees in the care of the insane and all laborers on the farm and determine their wages and duties; he shall also be an ex officio secretary of the board of visitors. The said disbursing agent, under the direction of the superintendent, shall have the custody of and pay out all moneys appropriated by Congress for the Government Hospital for the Insane, or otherwise received for the purposes of the hospital, and all moneys received by the superintendent in behalf of the hospital or its patients, and keep an accurate account or accounts thereof. The said disbursing agent shall deposit in the Treasury of the United States, under the direction of the superintendent, all funds now in the hands of the superintendent or which may hereafter be intrusted to him by or for the use of patients, which shall be kept in a separate account; and the said disbursing agent is authorized to draw therefrom, under the direction of the said superintendent, from time to time, under such regulations as the Secretary of the Interior may prescribe, for the use of such patients, but not to exceed for any one patient the amount intrusted to the superintendent on account of such patient. During the time that any pensioner shall be an inmate of the Government Hospital for the Insane, all money due or becoming due upon his or her pension shall be paid by the pension agent to the superintendent or disbursing agent of the hospital, upon a certificate by such superintendent that the pensioner is an inmate of the hospital and is living, and such pension money shall be by said superintendent or disbursing agent disbursed and used, under regulations to be prescribed by the Secretary of the Interior, for the benefit of the pensioner, and, in case of a male pensioner, his wife, minor children, and dependent parents, or, if a female pensioner, her minor children, if any, in the order named, and to pay his or her board and maintenance in the hospital, the remainder of such pension money, if any, to be placed to the credit of the pensioner and to be paid to the pensioner or the guardian of the pensioner in the event of his or her discharge from the hospital; or, in the event of the death of said pensioner while an inmate of said hospital, shall, if a female pensioner, be paid to her minor children, and, in the case of a male pensioner, be paid to his wife, if living; if no wife survives him, then to his minor children; and in case there is no wife nor minor children, then the said unexpended balance to his or her credit shall be applied to the general uses of said hospital: *Provided*, That in the case of any pensioner transferred to the hospital from the National Home for Disabled Volunteer Soldiers any pension money to his credit at said Home at the time of his said transfer shall be transferred with him to said hospital and placed to his credit therein, to be expended as hereinbefore

provided, and in case of his return from said hospital to the Home any balance to his credit at said hospital shall in like manner be transferred to said Home, to be expended in accordance with the rules established in regard thereto, and this provision shall also be applicable to all unexpended pension money heretofore paid to the officers of said hospital on account of pensioners who were but are not now inmates thereof."

SEC. 2. That all provisions of law inconsistent with this act are hereby repealed.

Mr. SMITH of Michigan. Mr. Chairman, I ask to have the report and the letters attached thereto in this matter read also.

The CHAIRMAN. Without objection the Clerk will read the report.

There was no objection, and the Clerk read as follows:

The Committee on the District of Columbia, to whom was referred the bill (H. R. 12899) to provide for a disbursing officer for the Government Hospital for the Insane, report the same back to the House with the recommendation that it do pass.

This bill merely provides for a disbursing officer for the Government Hospital for the Insane.

No additional expense is entailed, and the creation of the position of disbursing officer will materially assist the proper administration of the affairs of the hospital.

Appended are letters from the Secretary of the Interior, the superintendent of the hospital, and the Commissioners, approving the bill.

DEPARTMENT OF THE INTERIOR,

Washington, January 13, 1908.

SIR: I have the honor to acknowledge your letter of the 10th instant, inclosing House bill 12899, entitled "To provide for a disbursing officer for the Government Hospital for the Insane," and requesting my opinion on same.

In reply I would say that this bill was prepared by Mr. OLCOTT, who was the chairman of the committee of the last Congress that investigated the management of the Government Hospital for the Insane. It was one of the recommendations of that committee that the superintendent should be empowered to appoint a disbursing officer for the hospital, so that he might be relieved of the duties and responsibilities pertaining to that office. It has been the unanimous opinion of the board of visitors of the Government Hospital for the Insane for some years that this should be done, and the present bill is drawn with that end in view.

In my opinion it is a good bill and should be passed.

Respectfully,

JAMES RUDOLPH GARFIELD,

Secretary.

HON. SAMUEL W. SMITH,

Chairman of Committee on the District of Columbia,
House of Representatives.

GOVERNMENT HOSPITAL FOR THE INSANE,

Washington, D. C., February 29, 1908.

SIR: I have your letter of the 22d instant inclosing copy of House bill 12899, together with a letter from Commissioner Macfarland containing his opinions on same. You ask for my opinion of this bill.

Section 4839 of the Revised Statutes of the United States, which it is sought to amend by this bill, is a portion of the organic act creating the Government Hospital for the Insane. This act was passed something over fifty years ago, and the hospital that was created thereby was of course comparatively a very small institution. Under these circumstances it was eminently proper that the superintendent should be the responsible disbursing officer thereof. Since that time, however, the hospital has constantly grown until it is now one of the large hospitals for the insane in this country, and I believe of all the public institutions for the care of the insane it has the most complex relations. In the natural course of the growth the duties of the superintendent have become gradually more numerous, and the time which he once had to devote to fiscal matters has now to be distributed over a large number of problems. In fact, I think I might say without exaggerating that the work of the office of superintendent has increased four or five times in quantity and correspondingly in complexity in the four and a half years that I have been in charge. The natural result of all this is that while the superintendent is held by the statute to be the responsible disbursing agent, and as a matter of fact signs all pay rolls, checks, and vouchers, still the absolute necessities of the situation demand that the responsibility for the proper keeping of the accounts and the making out of the vouchers and the like be delegated to others. It would seem, therefore, that the bill under consideration not only will have the effect of relieving the superintendent from the work and responsibilities incident to his office as disbursing officer, but will also have the effect of affording additional protection to the United States by having the responsibility for the custody of the funds rest with the individual who has their immediate handling and the keeping of the accounts.

During the past four and a half years the administrative department of the hospital has been in process of reorganization. This reorganization is now practically completed, the only single thing of importance necessary to finish the work being the authority granted in the proposed bill for the superintendent to appoint a responsible disbursing officer.

The bill, in my opinion, is a good one. It provides for a change in the administrative department of the hospital, which is much needed and which will redound to the interests of the institution and will strengthen its fiscal responsibility. It is furthermore a step which is thoroughly justified by precedent, many institutions of this sort having treasurers. I think the bill should pass.

Respectfully,

WM. A. WHITE,

Superintendent.

HON. J. VAN VECHTEN OLCOTT,

House of Representatives.

OFFICE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,

Washington, February 21, 1908.

DEAR SIR: The Commissioners of the District of Columbia have the honor to state, in response to your request for their views upon House bill 12899, "To provide for a disbursing officer for the Government Hospital for the Insane," that they know of no objection to the passage of the bill, although the legislation proposed does not seem in any way to relate to the question of disbursement of appropriations for the District of Columbia nor affect in any way the relations of the District to the Government Hospital for the Insane.

Congress provides annual and specific appropriations in the District appropriation acts for the support in the Government Hospital for the Insane of the patients committed to that institution upon the order of the executive authority of the District of Columbia. Monthly statements are submitted to this office by the authorities of the said institution, showing the cost for that period, payable by the District of Columbia. This statement is used as a basis of a voucher audited and approved by the auditor of the District of Columbia and certified to by the commissioners, and becomes the authority for the Treasury Department to debit the District of Columbia appropriation and credit the appropriation provided by the General Government for the support of the Government Hospital for the Insane, which is merely a bookkeeping entry, and does not involve the handling or transfer of cash, the expenditures on account of that portion of the expenses of the institution being primarily paid from the appropriation provided by the United States and reimbursed thereto monthly, as above cited.

HENRY B. F. MACFARLAND,

President Board of Commissioners District of Columbia.

Hon. J. VAN VECHTEN OLCOTT,
House of Representatives.

The CHAIRMAN. Without objection, the bill will be laid aside with a favorable recommendation.

Mr. JOHNSON of South Carolina. O Mr. Chairman, I wish to have some information in regard to it.

Mr. SMITH of Michigan. Mr. Chairman, I yield to the gentleman from New York [Mr. OLCOTT].

Mr. JOHNSON of South Carolina. Mr. Chairman, there has been absolutely no explanation of this bill, and if nobody is going to explain it, I want to ask somebody who knows something about it some questions.

Mr. OLCOTT. I will be glad to explain the bill.

Mr. JOHNSON of South Carolina. I want to find out from the gentleman who has been disbursing the funds of this institution heretofore.

Mr. OLCOTT. The superintendent. He is the only person who has been entitled to sign checks.

Mr. JOHNSON of South Carolina. Is the superintendent not provided with an ample force of clerks, under the appropriation bills, to do all this work?

Mr. OLCOTT. This does not add in any way to appropriations. It merely makes an assistant of his a disbursing officer, to enable him to sign checks when it is necessary for the superintendent to be away.

Mr. JOHNSON of South Carolina. Is that assistant who is now acting as clerk receiving a salary of \$4,000 a year?

Mr. OLCOTT. The superintendent himself receives \$4,000 a year. The clerk receives much less. He gets no additional salary; there is no increase in the appropriation. He has to give a bond in the same amount as the superintendent, and is merely put in a position where he can sign checks as well as the superintendent.

Mr. JOHNSON of South Carolina. Does not that fix the compensation of the disbursing officer at \$4,000?

Mr. OLCOTT. I do not think so. I would like to say in regard to this bill that with the exception of line 9, on page 2, to line 1, on page 3, is exactly the law as it exists now. That provides merely that this disbursing officer shall have the power on giving the bond satisfactory to the Secretary of the Interior, without increase in salary at all, without any increase in the appropriation, in the necessary absence or during the time that the superintendent has other work to do, to sign checks, so that the business of the hospital need not stop until the superintendent arrives.

Mr. TAWNEY. Has this man the exclusive right or will he have the exclusive right of disbursing the funds of that institution?

Mr. OLCOTT. He will not; the superintendent still retains his present powers. It merely gives some other person the power of signing checks and transacting that business for the asylum.

Mr. TAWNEY. Well, on page 2, line 9, it reads:

The said disbursing agent, under the direction of the superintendent, shall have the custody of and pay out all moneys appropriated by Congress for the Government Hospital for the Insane—

Mr. OLCOTT. Yes.

Mr. TAWNEY (continuing)—

or otherwise received for the purposes of the hospital.

Now, that gives him exclusive control over the moneys.

Mr. OLCOTT. Under the direction of the superintendent. If the gentleman from Minnesota will notice a few lines above, there is a provision that the bond shall be satisfactory to the Secretary of the Interior, or exactly as now provided in the case of the superintendent.

Mr. TAWNEY. What salary does the superintendent receive?

Mr. OLCOTT. My impression is he receives \$4,000.

Mr. TAWNEY. What salary is this man to receive?

Mr. OLCOTT. Just what he is receiving now; he is assistant to the superintendent.

Mr. TAWNEY. Why can not the disbursing officer for the Interior Department make the disbursements for that institution?

Mr. OLCOTT. Because that has not been done in the case of this institution; you would have to change entirely the conduct of the institution. Everything has always been paid over directly, and checks have been drawn by the superintendent himself upon the fund that is appropriated by Congress. He makes his drafts directly upon the appropriated amount.

Mr. FITZGERALD. Will the gentleman point out what part of this fixes the compensation of this new officer?

Mr. OLCOTT. There is no new officer. There is simply designated a certain person connected with the institution as a disbursing officer; there is no additional appropriation called for.

Mr. FITZGERALD. What part of the bill is new?

Mr. OLCOTT. The part that is new is—

Mr. MANN. Creating him a disbursing agent; that is what is new.

Mr. OLCOTT—

Said disbursing agent under the direction of the superintendent—

That is beginning line 10 with the word "thereof" on line 16.

Mr. MANN. And the authority to appoint the disbursing agent—

Mr. OLCOTT. That is true.

Mr. MANN—

He shall reside on the premises and devote his whole time to the welfare of the institution; he shall, subject to the approval of the board of visitors, appoint a responsible disbursing agent for the institution who shall give a bond satisfactory to the Secretary of the Interior.

Mr. FITZGERALD. That is new?

Mr. OLCOTT. That is new.

Mr. FITZGERALD. So the compensation is not fixed?

Mr. OLCOTT. It is not.

Mr. MANN. That would be fixed by the appropriation act.

Mr. FITZGERALD. I understood from the report it was fixed.

Mr. OLCOTT. No. The report expressly says, and the letters of the superintendent, the Secretary of the Interior, and the Commissioners all agree, that no additional compensation is contemplated, that the disbursing officer will be one of the present employees of the institution, who will have to give bond that is subject to the approval of the Secretary of the Interior. There is no additional expense. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The question was taken, and the motion was agreed to.

FREE LECTURES.

Mr. SMITH of Michigan. Mr. Chairman, I call up the bill (H. R. 16977) for free lectures.

The CHAIRMAN. The gentleman from Michigan calls up the following bill, which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 16977) for free lectures.

Be it enacted, etc., That the board of education of the District of Columbia be, and it is hereby, authorized to maintain a course or series of free evening lectures: *Provided,* That such lectures shall be held in some of the public school buildings.

Mr. SMITH of Michigan. Mr. Chairman, I call for a reading of the report, as it is short.

The report was read, as follows:

The Committee on the District of Columbia, to which was referred the bill (H. R. 16977) for free lectures, report the same back to the House with the recommendation that it do pass.

The purpose of this legislation is sufficiently indicated in the bill itself—that is, the maintenance of a course or series of free evening lectures in some of the public school buildings.

A similar bill was recommended by this committee in the second session of the Fifty-ninth Congress (Rept. No. 6731, 59th Cong., 2d sess.), which passed the House but was not passed by the Senate.

This bill was submitted to the Commissioners of the District of Columbia, and received their approval, as appears by the following letter:

OFFICE COMMISSIONERS DISTRICT OF COLUMBIA,
Washington, March 9, 1908.

SIR: The Commissioners have the honor to recommend favorable action upon H. R. 16977, Sixtieth Congress, first session, entitled "A bill for free lectures," which was referred to them at your instance for examination and report.

This bill was recommended by the full committee on libraries and lectures of the board of education and approved by that board.

Very respectfully,

HENRY B. F. MACFARLAND,
*President Board of Commissioners,
District of Columbia.*

Hon. S. W. SMITH,

*Chairman of Committee on the District of Columbia,
House of Representatives.*

Mr. MANN. Mr. Chairman—

Mr. SMITH of Michigan. Mr. Chairman, I yield to the gentleman from New York [Mr. OLCOTT].

Mr. MANN. Mr. Chairman, will the gentleman from New York inform the committee what is the proposition with regard to paying the expenses of these lecturers?

Mr. OLCOTT. That, I would say, would depend entirely on what appropriation is made by the Appropriations Committee when the District appropriation bill comes up.

Mr. MANN. So this is simply a peg upon which to hang an appropriation?

Mr. OLCOTT. I would say in connection with that that there was an amendment to the District of Columbia appropriation bill, providing for free lectures, with an appropriation, but that was stricken out on the point of order being raised by the gentleman from Minnesota, if I recollect correctly, and this is to prevent that point of order being successfully made, and then I presume the Committee on Appropriations and thereafter the Committee of the Whole, when that bill comes up for discussion, will determine how much is to be appropriated.

Mr. MANN. This indicates the policy which shall be pursued. Now, what is the plan that they have in view? What are these lectures to be about. How many lectures are there to be? Are we to maintain a corps of professional lecturers for the schools?

Mr. OLCOTT. Of course, that must be limited entirely by the amount of appropriation that is made. The amendment that I offered during the discussion of the District bill, I think during the last session, or possibly the second session of the Fifty-ninth Congress, was for an appropriation of \$10,000. I think that there was an amendment made to my suggestion to reduce such amount to \$1,500. I am not ready at this particular moment to give an exact statement as to how these free lectures shall be conducted, or as to how many of them there shall be. The suggestion that these lectures be held in a public-school building was made and quickly accepted, so that there will be no expense whatever for rent.

Mr. MANN. Since I have been in the House, as the gentleman knows, I have seen an appropriation of \$10,000, or such a matter, for rural free delivery grow to \$34,000,000, and no end in sight.

Mr. OLCOTT. I scarcely think it is probable that an appropriation for free lectures would grow to such large figures. As a matter of fact, in the city of New York they do appropriate somewhere between \$150,000 and \$200,000.

Mr. MANN. What is the principle over there? Do they hire lecturers?

Mr. OLCOTT. In certain cases they do, but in other cases they are delivered voluntarily.

Mr. MANN. Will my distinguished friend from Missouri and my distinguished friend from Indiana soon be delivering their series of lectures, which are very good ones and worth the money, here?

Mr. OLCOTT. I think there is no particular risk in leaving that matter in the hands of the board of education. They would scarcely desire to allow a political harangue under the guise of free lectures.

Mr. MANN. It would not be a political harangue from the gentleman from Missouri, because everything he says is worth hearing. But how far will we go in hiring these professional lecturers, and what will be the result after the final cost? We ought to know something about it.

Mr. OLCOTT. I think it is proper that we should leave the details of that to the board of education, and I think that they can be depended upon to do as boards of education in other cities of this country have done, namely, maintain a method of education for people who, by reason of age or by reason of business affairs, feeling their limitations as to their education, can obtain knowledge by attending these lectures that it is impossible for them to obtain in any other way.

Mr. MANN. The gentleman understands, of course, that that which is free is generally sought for by nearly everybody.

Mr. OLCOTT. I think that is true.

Mr. MANN. And it does not make any difference whether it is a lunch, a pink tea, or a bargain counter. If it is something that is practically free, everybody wants the benefit. And if you propose to have a series of free lectures here—entertainment, instruction, literary lectures, lectures on travel, something to please the people—it is a good deal like going back to the old Roman days, when the theory was to please the people and be elected to office. Now, how far would such a thing go? I think there ought to be some limitation.

Mr. OLCOTT. I think that the limitation will come when the Appropriation Committee comes to make an appropriation. I do not imagine it is our duty to prescribe exactly the details of how the lectures are to be conducted when we have a board of education whose duty it will be to look after that.

Mr. MANN. There might be a limitation in here of the cost to the Government of these lectures.

Mr. HULL of Iowa. Would not that come every year on the Appropriation Committee? They could not go beyond what the Committee on Appropriations would give them.

Mr. OLCOTT. I think I am right when I say that there is no one who is giving serious consideration to the general free public education, which is certainly believed in in the Federal Government as well as in the various state governments, who will not concede the fact that the lectures which have been delivered in various cities have been as valuable as anything that has been done for education.

Mr. MANN. Yes; but in all the other cities the people pay the bill. Here the people outside of the District pay half the bill.

Mr. OLCOTT. I understand that; but we are not going into the old question of who pays the expense of the District of Columbia. That is not germane now.

Mr. MANN. It is germane only to the extent as to how far the people here will urge Congress constantly to increase the appropriations for their free benefit at the expense of some one else.

Mr. OLCOTT. The only letter I have quoted in my report is from the president of the commissioners. The board of education has urged it for a considerable length of time. The Public Education Society, which is an entirely free and voluntary society, has urged it in the strongest possible terms. It is urged also by other people living here in the city of Washington who take an interest in education, not by those who desire to get something for nothing, but people who are interested in the best welfare of the city of Washington and its people.

Mr. SHERLEY. Will the gentleman inform me whether there are any night schools in the District of Columbia?

Mr. OLCOTT. There are night schools in the District of Columbia.

Mr. SHERLEY. Well, at those night schools these people whom you seek to accommodate who have no opportunity, ordinarily, to get an education, would have an opportunity.

Mr. OLCOTT. By attending these schools. They can attend the night schools except, I think, there are limitations as to the age of the persons who are admitted.

Mr. GILLETT. There is no limit of age.

Mr. OLCOTT. I thought there was.

Mr. GILLETT. There is not.

Mr. OLCOTT. Then I withdraw that statement.

Mr. SHERLEY. If there was any limitation we might possibly better serve the cause by liberalizing opportunities to attend the night schools than by providing for free lectures.

Mr. GILLETT. This is not a new proposition.

Mr. OLCOTT. Oh, no; not at all.

Mr. GILLETT. We have had it for a while.

Mr. GOULDEN. It is four years since we have had an appropriation.

Mr. GILLETT. We have had a test of them.

Mr. OLCOTT. We have.

Mr. GILLETT. Can the gentleman tell the numbers attending the lectures and the character of the lectures?

Mr. OLCOTT. I regret that I can not state that accurately.

Mr. GILLETT. There have been some lectures maintained by private people.

Mr. OLCOTT. I think so.

Mr. SHERLEY. Can the gentleman tell how many free lectures, day and night, are given in the District? Are there not more than in almost any other city of the United States?

Mr. OLCOTT. I do not think there are.

Mr. GOULDEN. Four years ago Congress appropriated \$1,500 for this purpose.

Mr. OLCOTT. That was before I was here.

Mr. GOULDEN. That was four years ago. I attended several of the lectures at that time. They were well patronized, and in some instances people were turned away for want of room.

Mr. GILLETT. The gentleman says he attended the lectures. Where were the people turned away?

Mr. GOULDEN. From the Carnegie Library auditorium.

Mr. GILLETT. When was that?

Mr. GOULDEN. In February, 1905.

Mr. GILLETT. What was the subject?

Mr. GOULDEN. There were various historical subjects. I remember giving one of them myself. [Great laughter.] I do not mean that they were turned away because I happened to be a participant, but the lecture hall was so crowded that people were turned away on that and several other occasions.

Mr. MANN. May I ask the gentleman a question?

Mr. OLCOTT. I yield to the gentleman for a question.

Mr. MANN. Is one reason for bringing that proposition up now because free lectures by a certain gentleman are to cease because of the change of the administration soon?

Mr. OLCOTT. I had not thought of that.

Mr. GILLETT. Mr. Chairman, this subject was up before the Committee on Appropriations several years ago, when I was on the subcommittee having in charge the District of Columbia appropriation bill. For several years there was an appropriation of \$2,000.

Mr. GOULDEN. One thousand five hundred dollars.

Mr. GILLETT. We looked into the question of these lectures and the attendance at them, and we concluded that the lectures were not in the line of education of children, but that they were for adults and more a matter of gratification than education.

We thought they were more for amusement and entertainment than they were in the line of education, and we did not feel that it was the province of Congress or of the city government to begin giving entertainments to the grown people of the District. If I remember right, we found that the average attendance was about 200 at these lectures. I am quite sure it was not larger than that, and we found that the lecturers were all paid a compensation, which varied—perhaps my friend from New York can tell me what the compensation is.

Mr. GOULDEN. Ten dollars. I want to say, if the gentleman will pardon me, that the Member now speaking did not receive any compensation, but declined it.

Mr. GILLETT. I am sure it was worth it in that case. We found that they were paid a compensation, and then there were other expenses. Sometimes they had illustrated lectures, and then something was paid for janitor service. I have forgotten exactly what the expenses were, but I think the average expense of a lecture came to about \$25. We concluded that the lectures, judging from the subjects which they treated of, were not in the line of the education of the children or of their parents, but were more in the line of entertainment, and we felt that it was not in the province of Congress to furnish amusement to the people of the District. Therefore we struck it out of the appropriation bill. When it came into the House an amendment was offered, as the gentleman says, and it was stricken out on a point of order. Since then there has been a constant attempt to pass this law, giving the right to have lectures, and it brings before the House the general question, it seems to me, Do we want in the District of Columbia to go into the business of providing entertainments for adults or do we not? I do not believe we do, and therefore I shall vote against this proposition. I believe in doing all we can for the children of the District, giving them everything which will promote their health as well as education. On their development depends the future of the country, and we can not afford to be on the side of niggardliness, but I do not think we should pay for the entertainment of adults.

Mr. OLCOTT. I yield to the gentleman from Vermont [Mr. FOSTER] such time as he desires.

Mr. FOSTER of Vermont. Mr. Chairman, I am heartily in favor of this proposition. As matters now stand it is very difficult to get an appropriation for anything that is not provided for by law. This bill does not mean that we must necessarily appropriate money for this enterprise. It is true that free lectures are had in other cities. Every few days I read accounts of the free lectures that are given in New York in connection with the public-school system. The subjects are given and the names of the lecturers are given. It is the desire of the people of the United States that the system of public instruction here in Washington should be as nearly ideal as possible. This bill simply prepares the way so that hereafter, if the House of Representatives thinks it wise to provide for a course of free lectures, it can do so.

It can not do so now, because a Member on the Committee on Appropriations or any other individual Member of the House can raise the point of order if an attempt is made in connection with the proper appropriation bill to appropriate money for this purpose. I believe that the House of Representatives should have the opportunity to consider these subjects. This is a great and interesting subject, one that the House of Representatives is capable of dealing with. When the appropriation bill comes in each year there will be time enough to consider the question of making or continuing an appropriation.

Mr. SHERLEY. Would not that be true as to any other governmental activity? Is it not true that a point of order lies to any item on an appropriation bill when there is no law for it? If the gentleman's argument is sound, ought we not to authorize any department to do any particular thing and then leave it to

the House to determine on an appropriation bill whether we want to vote the money?

Mr. FOSTER of Vermont. I see no objection to that.

Mr. SHERLEY. But is there any force in your argument at all?

Mr. FOSTER of Vermont. I think there is.

Mr. GILLETT. If the House does not want to do this, why is it not the better way to defeat this bill, rather than to wait until the question comes up on an appropriation bill?

Mr. FOSTER of Vermont. Because that shuts out all future Houses of Representatives. The House of Representatives will go on after the gentleman from Massachusetts and myself cease to be Members.

Mr. GILLETT. Why can not a future House pass this bill just as well as we can?

Mr. FOSTER of Vermont. We can pass this particular bill; but if this particular bill is passed now, then at every session of Congress the House of Representatives can consider the question of appropriating money for a course of free lectures. Otherwise it can not do this except as the Committee on Rules brings in a special rule.

Mr. GILLETT. We can pass this bill just as well in any other Congress.

Mr. FOSTER of Vermont. I know we can pass this bill in any other Congress, but I say that we can not consider an item in the appropriation bill on its merits for this purpose until some such legislation like this is had, and for that reason I am in favor of the legislation.

Mr. OLCOTT. Mr. Chairman, the objection that free lectures are not a proper part of public education as coming from the gentleman from Massachusetts [Mr. GILLETT] surprises me greatly. I am sure that he will agree with me that the experience in the city of Boston has been that these lectures have done a great amount of good. I know it has been so in the city of New York. I really think that we might just as well seriously discuss whether it is a proper appropriation of money for free libraries. There are some people that have not the taste or perhaps the ability for making proper use of libraries. I think these people should receive the advantage of having the lectures here in the city of Washington.

Mr. TAWNEY. Will the gentleman permit an interruption?

Mr. OLCOTT. Yes; if the gentleman wishes.

Mr. TAWNEY. The gentleman takes as an illustration the use of free libraries.

Mr. OLCOTT. If the gentleman wants to ask me a question, I will yield, but I do not want him to interrupt me in the middle of a sentence.

Mr. TAWNEY. The free library distributes its books everywhere, but the free lectures are limited by the size of the hall that is engaged.

Mr. OLCOTT. Not a speech, please.

Mr. TAWNEY. And the average attendance at these past lectures has only been 200.

Mr. OLCOTT. That is an interesting remark to come from the gentleman from Minnesota in view of the fact that the principal objection to free lectures in the past was that there was not enough people attending the lectures to make it profitable. Now the gentleman says that the greatest objection is that they are limited in number to the size of the hall. I think the objections made by the opponents of this bill are inconsistent.

The fact remains that in every city where lectures have been had they have been of great benefit to the community. If the Committee on Appropriations can not limit the expenditures, and the board of education can not be trusted to perform their duty properly in connection with these free lectures, if that is not a sufficient guard against this tremendous onslaught on the Treasury of the United States, then I think it is time to get a new board of education. Of course I would not say anything about a new Committee on Appropriations. [Laughter.]

Mr. GAINES of Tennessee. Will the gentleman yield to an inquiry?

Mr. OLCOTT. I will yield to the gentleman.

Mr. GAINES of Tennessee. What does the gentleman mean by "free lectures?"

Mr. OLCOTT. Lectures that do not cost anything to the people who attend them.

Mr. GAINES of Tennessee. Does the Government pay the lecturer?

Mr. OLCOTT. That is left to the board of education, who spend the money appropriated by the Appropriation Committee. If the Appropriation Committee does not make any appropriation, why, of course, the board of education can not pay any lecturer.

Mr. GAINES of Tennessee. Why should you call them "free lectures" if it takes money out of the Public Treasury to pay the lecturer?

Mr. OLCOTT. I have stated my idea of free lectures—that they are such lectures as a person can attend without paying an admission fee.

Mr. SIMS. Mr. Chairman, when this same subject-matter was up before the last Congress I opposed this bill, or as a provision then offered in the appropriation bill. I oppose it now for the reason that I see no necessity for it whatever in the city of Washington. While, as has been stated, the lectures will be free to those who hear them—and I do not know how many there will be who will go—there are more opportunities for general education in the city of Washington by means of libraries, lectures, sermons, and schools than in any place in the United States. It is suggested by my friend from Massachusetts on my right [Mr. AMES] that I have not mentioned Congress, where it does not cost anything to hear the proceedings or to read them if they will only give us their names. Another gentleman says I have omitted the White House. I do not mean to omit any educational agency in this discussion. [Laughter.]

But I think the way to look at this is to take a practical view of it and see what they did do in Washington when they had these lectures, what kind of lectures they were, and what were the subjects, and see whether or not this House feels authorized to increase expenditures while every hour the deficit is increasing in the Treasury and new sources of taxation must be sought in order to support the Government, and to see whether or not we want these free lectures—free to those who will go to hear them and yet not free to the Government of the United States or to the District of Columbia.

The gentleman from New York [Mr. OLCOTT] had charge of the measure at that time. I looked back to the lectures they did have under the appropriation in 1905, and I refresh my memory by referring to the RECORD, so as to show you some of the subjects of the lectures, to see whether or not at a time like this, when the revenues of the Government are going down every day, we want to put an additional burden on our people in order that the people here may have an opportunity to attend free lectures upon such subjects as were treated at that time. There was a lecture delivered by H. W. Wiley, Ph. D., subject, "Feeding Preservatives to Young Men." That was one of the kind of lectures that you were paying for in 1905—feeding preservatives to young men!

Mr. OLCOTT. Will the gentleman yield for a question?

Mr. SIMS. Yes.

Mr. OLCOTT. Was not that the fault of the board of education in so administering the funds? And does that change the general principle?

Mr. SIMS. Then I will say that I do not want that board or any other board in the future to again disburse money for such purpose. Here was another by Henry Oldys, subject, "Bird Notes!" Some of you perhaps remember the serious and solemn discussion we had of the importance of that great lecture at that time—a free lecture to those who had it at the expense of the Treasury of the United States, in order that the working people of the District may hear bird notes talked about—free to them!

The very fact that money would be squandered for such a purpose as that should preclude any thought of ever laying a tax to employ any lecturers to discuss subjects of that kind. Bird notes! How many of you gentlemen are interested in bird notes? We should try to preserve the birds, and they will take care of the notes, but the idea of paying somebody to go down there and lecture to the people at night free upon bird notes seems preposterous. How many of you gentlemen feel that you could justify such a vote before your constituents, taxing them to have free lectures here on bird notes, or anywhere else?

Mr. BARTLETT of Georgia. Why not have a lecture on how to pay promissory notes?

Mr. SIMS. My friend from Georgia suggests that a lecture on the method of paying promissory notes would be more in order, and I think so, too. We are issuing notes of the Government, bonds to run the Government—we will have to do so—and they are a kind of note, not a bird note, but a very interesting one to the taxpayer.

Another lecture was by George O. Totten, jr., on Spanish architecture. Now, you all know that the laboring people of this country and this District will be greatly deprived of a necessary knowledge to make a living if they do not understand Spanish architecture, and we must be taxed to have free lectures in order that they may understand Spanish architecture. Why, I suppose they are up on that subject now. They had a

lecture on it in 1905. I never found out how many of them attended it, but I am showing you the subjects we did pay for, to enable the people to hear lectures free.

Another one is "Around the world in forty minutes." [Laughter.] That, perhaps, is excusable. I believe I would be willing to go to a lecture and pay for it if somebody would tell me how to go around the world in forty minutes, and especially how to get the navy of the United States around the world in less than twelve months at a cost of millions of dollars. But here is a free lecture on how to get around the world in forty minutes. These are the subjects of the lectures for which we did pay. It is so ridiculous that it seems unnecessary to comment upon the fact that these are the lectures delivered free to people who are so poor they can not pay to hear a lecture without taxation; so ridiculous as to disgust this Congress with any attempt to establish anything of that kind again.

Mr. GAINES of Tennessee. How much did they pay for a lecture?

Mr. SIMS. I do not know. If it had been a cent it would be too much.

Mr. GILLETT. Ten dollars.

Mr. SIMS. Here is another one, by the Rev. U. G. B. Pierce; subject, "A night in the nether world." Do you want to tax your people in order to let the people here find out something from a lecture about a night in the nether world? Is not that a practical subject? Is not that something we ought to all know about?—a night in a nether world. Of course, I do not know what the board of education will do in the future, but we have been taught that we must judge the future by the past, and that is what they did do. That is the way they employed the funds, and what guaranty have we that there will be any practical use made of it? Besides, it is not needed, even if it was desirable; even if the people did not have all the good opportunities they have here that are paid for, not costing them a cent, living in the finest city in the United States, if not in the world, with the greatest opportunities for educational advantage—a great museum, great libraries, and both ends of this Capitol full of great scholars, orators, and lecturers, who, at least when here, deliver them free.

Now, Mr. Chairman, I think this bill ought to be voted down. I do not think any such bill ought to pass. I do not think we ought to put it up to the Appropriations Committee to refuse to appropriate if Congress makes the law. It is saying to the Appropriations Committee that we deem it worthy of their consideration. Let us make no such useless law as this that was used, as I have indicated, when we did have such a law. Mr. Chairman, I reserve the balance of my time.

Mr. GAINES of Tennessee. Before my colleague takes his seat I want to ask him what were the subjects discussed in the public schools in Boston?

Mr. SIMS. I do not know; I have not looked that up.

Mr. GAINES of Tennessee. I would like to have that information; possibly they had something else.

Mr. OLCOTT. Mr. Chairman, I renew my motion to lay the bill aside with a favorable recommendation.

Mr. TAWNEY. Mr. Chairman, I want to call attention to one fact before the vote is taken. We have experimented with this in the past. Congress heretofore authorized these lectures and appropriated the money for them, and as a result of our experience with this authority Congress subsequently refused to authorize the continuance of these lectures and refused to appropriate money to defray the expense.

Mr. PARSONS. Will the gentleman yield for a question?

Mr. TAWNEY. Certainly.

Mr. PARSONS. How did Congress refuse to authorize?

Mr. TAWNEY. By failing to appropriate.

Mr. PARSONS. But did not the provision go out on the point of order?

Mr. TAWNEY. The provision went out on a point of order made on the floor of the House—

Mr. GILLETT. I beg pardon; no, it did not the first time. It was omitted by the Appropriations Committee and—

Mr. OLCOTT. The amendment was offered by me, and went out on the point of order.

Mr. TAWNEY. Mr. Chairman, there is another branch of Congress where those interested in free lectures know very well that amendments of this character can be inserted in appropriation bills, and if there was any effort made to include this appropriation in the District of Columbia bill in the Senate the appropriation was not made. Now, if in the first instance we should authorize these lectures, as we did, and authorize them on the same presentation as now we are asked to authorize or enact this law, if the lectures are of such character as to justify the expenditure Congress can be relied on to make the appropriation for them, but under our experience it was demonstrated

that they were not of that character as to justify the expenditure of public money for that purpose, and for that reason the appropriation has not been made, and we abandoned the experiment. I do not know what the experience or result has been in Boston or in New York, but after a full investigation of the practicability and utility of these lectures it was found to be unsatisfactory, and for that reason Congress ceased to make the appropriation, and I do not think we are justified upon the same presentation now to enact a permanent law whereby these lectures may be continued indefinitely. They may be improved or they may not; in any event, if we enact this it creates a permanent law and appropriations will be made without reference to the necessity for them. I hope the bill will be voted down.

Mr. OLCOTT. Mr. Chairman, I renew my motion.

Mr. GAINES of Tennessee. Will the gentleman yield for a minute?

Mr. OLCOTT. Yes.

Mr. GAINES of Tennessee. I want to find out from the gentleman from Massachusetts [Mr. GILLET] about these lectures in Boston. I understand free lectures have existed for some time in Boston. Will the gentleman tell the House what subjects were discussed?

Mr. GILLET. I am not a citizen of Boston, and I do not know.

Mr. GAINES of Tennessee. Well, is there anybody from Boston who can inform us? I really would like to know.

Mr. MANN. The gentlemen from Boston are all on that side of the House.

Mr. GAINES of Tennessee. I understand that is a very learned side of the House.

Mr. MANN. And they send very learned Representatives here, too.

Mr. GAINES of Tennessee. I would like to know what some of the lectures are had in the schools of Boston, so we can pass on this matter intelligently. I am going to vote against the bill with the information I have.

Mr. PARSONS. I think that in New York City the character of the subjects on which lectures are given are mostly historical and scientific. I remember that some years ago we had an anniversary celebration in New York, and we called upon the bureau of public lectures to give illustrated lectures in the open air all over the city on the occasion of that anniversary. These lectures were illustrative of the history of the city. Pictures of the city, showing its growth, gave to hundreds of thousands of people in the city information that they could not have obtained in any other way, and that of itself was quite worth while. Now, I would suggest that while the subjects alluded to by the gentleman from Tennessee [Mr. SIMS] are very humorous, his arguments against lectures would be equally as good against allowing the money appropriated for the public library in the District to be used to purchase books with those same titles. You do not object to that, and you would not object to it. You can very easily suppose the kind of lectures which would be of great benefit to those who went to hear them, and I hope that the experience of New York and Boston, where they have proper subjects, will prevail with the committee.

Mr. TAWNEY. I hope that the experience in the District of Columbia will prevail.

Mr. BENNET of New York. Mr. Chairman, I have always had a great admiration for the city of Chicago.

Mr. MANN. There are others.

Mr. BENNET of New York. Since visiting there last June I want to say that my admiration is even greater because of the magnificent system of recreation centers that they have established in that city, superior, I should say, to anything in the world. I think that we Representatives from cities, and especially from districts which embrace sections of cities where we have people who have not had all of the advantages, feel that in a sense it is our duty, legislating as we do for the District of Columbia, to see that the people here of limited means have the same opportunities as people of limited means in our own cities have. We have tried these lectures in New York City, and they have appealed to and instructed the people who have not had early opportunities. They are using them in the city of Chicago, but the gentleman from Illinois [Mr. MANN] tells me that there they are either entirely free to the city, or else that the expense was defrayed by a newspaper, and, therefore, the situation is not entirely analogous. But I do believe that in cities where the population is congested instruction of this sort to people who have not had the opportunities in their youth is valuable, and I hope the bill will pass.

Mr. GOULDEN. Mr. Chairman, I am in favor of the proposed bill. Having had a number of years of practical experience in this matter, I have seen the benefits arising from free lectures. Take the Borough of the Bronx, which constitutes the

major portion of the Eighteenth New York Congressional District, with a population approximating that of Washington, a fair comparison can be made. The first lecture center was established there some fifteen years ago. Since then, twenty-odd centers have been formed and are in successful operation, proving the great popularity of this part of the great educational system of New York City.

The subject-matter of the lectures, which were attended by upward of two millions, was both instructive and interesting. They were of a historical, physiological, geographical, and kindred character.

Having attended many of these lectures, witnessed the interest manifested by the people, who come largely from the laboring or middle classes, heard their testimony in favor of these functions, I am in entire accord with the measure now under consideration.

When these lectures were given here in Washington in 1905, I watched them closely and formed the same favorable opinion of their benefits and advantages.

The criticism of the gentleman from Tennessee [Mr. SIMS] in giving the title of but four of the forty or fifty lectures delivered here four years ago is unfair. Why did he not give the committee the full list, showing the high and educational character of the great majority of these functions? Experience has taught all cities which have introduced the free lectures that they are beneficial, instructive, and popular. Congress may well follow these worthy examples and approve this desirable measure for the benefit of the people of the District of Columbia.

The CHAIRMAN. The question is on laying the bill aside with a favorable recommendation.

Mr. SIMS. Mr. Chairman, it has not been read under the five-minute rule, and I want to offer an amendment to the bill. I have not a copy of the bill with me, but I want to add this as a final section if the Clerk will take it down.

The CHAIRMAN. Does the gentleman demand the reading of the bill?

Mr. SIMS. I do not care about its being read, so that I may offer an amendment.

The CHAIRMAN. Without objection, the gentleman will offer his amendment.

Mr. SIMS. I offer this as the last section of the bill:

Provided, That the expenses thereof shall be paid entirely from the revenues of the District of Columbia as appropriated from time to time by Congress.

Mr. OLCOTT. I will not accept that amendment, Mr. Chairman, because I do not want to go into that question.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Insert at the end of the bill:

Provided, That the expenses thereof shall be paid entirely from the revenues of the District of Columbia as appropriated from time to time by Congress.

Mr. SIMS. Mr. Chairman, as this is a local educational facility, and benefits almost entirely the local people, who are permanent residents of the District, I think these lectures ought to be paid for out of the district revenues.

Mr. MANN. Will the gentleman yield for a question?

Mr. SIMS. Certainly.

Mr. MANN. The gentleman's amendment would seem to be perfectly fair in some respects; but, after all, we have been acting under what may practically be called an agreement or organic act, under which the present District of Columbia is governed. This is in violation of the provisions of that act, and we can violate it because we have the authority to violate it; but the District people are always asking Congress to violate it in their favor. If we violate that provision in our favor, certainly we will give them a very good precedent for asking us to violate it in their favor in the future. It would be more direct to move to strike out the enacting clause of this bill.

Mr. SIMS. Under the organic act, I can not conceive that it was ever dreamed that any such appropriation as this would be asked for. I do not believe it was contemplated; and the only reason why I offer this amendment is to make the bill as objectionable as possible, in order that it may be killed—if the gentleman will accept that explanation.

Mr. MANN. In order to get at the matter directly, and as the motion will have priority, I move to strike out the enacting clause.

The CHAIRMAN. The question before the committee is the motion to strike out the enacting clause of the bill.

The question was taken, and the chairman announced that the ayes appeared to have it.

Mr. OLCOTT. Division, Mr. Chairman.

The committee divided, and there were—ayes 46, noes 21.

So the amendment was agreed to.

CODE OF LAWS FOR THE DISTRICT OF COLUMBIA.

Mr. SMITH of Michigan. Mr. Chairman, I move that the bill (H. R. 552) to amend section 553 of the Code of Laws for the District of Columbia be referred back to the Committee on the District of Columbia.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 552) amending section 553 of the Code of Laws for the District of Columbia.

The question was taken, and the motion was agreed to.

So the bill was laid aside with the recommendation that it be recommitted.

ORDER OF BUSINESS.

Mr. SMITH of Michigan. Mr. Chairman, I move that the committee rise and report the bills to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. TOWNSEND, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration sundry bills and had directed him to report the bill H. R. 16977 with the recommendation that the enacting clause be stricken out, the bill H. R. 552 with the recommendation that it be recommitted to the committee, and the bills H. R. 16066 and 12899 with favorable recommendations.

BILLS PASSED.

The first bill reported from the Committee of the Whole was the bill (H. R. 16066) providing for the payment of an annual license tax by dealers in all forms of manufacture of tobacco in the District of Columbia, with amendments, which were read.

The amendments recommended by the Committee of the Whole were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time and passed.

The next bill reported from the Committee of the Whole was the bill (H. R. 12899) to provide for a disbursing officer for the Government Hospital for the Insane.

The bill was ordered to be engrossed for a third reading; and being engrossed, was accordingly read the third time and passed.

BILL RECOMMENDED.

The next business reported from the Committee of the Whole was the bill (H. R. 552) to amend section 553 of the Code of Laws for the District of Columbia, with the recommendation that it be recommitted to the Committee.

The recommendation of the Committee of the Whole was agreed to, and the bill was recommitted to the Committee on the District of Columbia.

FREE LECTURES.

The next business reported from the Committee of the Whole was the bill (H. R. 16977) for free lectures, reported from the Committee of the Whole, with the recommendation to strike out the enacting clause.

The SPEAKER. The question is on agreeing to the recommendation of the committee.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. OLCOTT. Division!

The House divided; and there were—ayes 35, noes 12.

Mr. OLCOTT. I demand the yeas and nays.

The SPEAKER (after counting). Twelve gentlemen have arisen.

Mr. FITZGERALD. The other side.

The other side was taken.

The SPEAKER. Twelve have arisen in support of the demand and 56 in the negative. The yeas and nays are refused. So the enacting clause was stricken out.

On motion of Mr. SMITH of Michigan, a motion to reconsider the votes by which the bills H. R. 16066 and 12899 had been passed was laid on the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, its reading clerk, announced that the Senate had passed the following resolution:

Resolved, That the Secretary of the Senate be directed to request the House of Representatives to return to the Senate the bill (H. R. 16743) for the removal of the restrictions on alienation of lands of allottees of the Quapaw Agency, Oklahoma, and the sale of all tribal lands, school, agency, or other buildings on any of the reservations within the jurisdiction of such agency, and for other purposes.

BUCKET SHOPS IN THE DISTRICT OF COLUMBIA.

Mr. SMITH of Michigan. Mr. Speaker, I call up the bill (H. R. 20111) to amend an act entitled "An act to establish

a code of law for the District of Columbia," relative to gambling, bucket shops, and bucketing.

The bill was read as follows:

Be it enacted, etc., That section 869 of the act of Congress entitled "An act to establish a code of law for the District of Columbia," approved March 3, 1901, be, and is hereby, amended by adding sections 869a, 869b, 869c, and 869d, so as to read as follows:

"Sec. 869a. An act to prohibit bucketing and bucket shopping and to abolish bucket shops.—The following words and phrases used in this act shall, unless a different meaning is plainly required by the context, have the following meanings:

"Person" shall mean an individual, partnership, corporation, or association, whether acting in his or their own right or as the officer, agent, servant, correspondent, or representative of another.

"Contract" shall mean any agreement, trade, or transaction.

"Securities" shall mean all evidences of debt or property and options for the purchase and sale thereof, shares in any corporation or association, bonds, coupons, scrip, rights, choses in action, and other evidences of debt or property and options for the purchase or sale thereof.

"Commodities" shall mean anything movable that is bought and sold.

"Bucket shop" shall mean any room, office, store, building, or other place where any contract prohibited by this act is made or offered to be made.

"Keeper" shall mean any person owning, keeping, managing, operating, or promoting a bucket shop, or assisting to keep, manage, operate, or promote a bucket shop.

"Bucketing" or "bucket shopping" shall mean: (a) The making of or offering to make any contract respecting the purchase or sale, either upon credit or upon margin, of any securities or commodities wherein both parties thereto intend, or such keeper intends, that such contract shall be or may be terminated, closed, or settled according to or upon the basis of the public market quotations of prices made on any board of trade or exchange upon which said securities or commodities are dealt in and without a bona fide purchase or sale of the same; or (b) the making of or offering to make any contract respecting the purchase or sale, either upon credit or upon margin, of any securities or commodities wherein both parties intend, or such keeper intends, that such contract shall be or may be deemed terminated, closed, or settled when such public market quotations of prices for the securities or commodities named in such contract shall reach a certain figure without a bona fide purchase or sale of the same; or (c) the making of or offering to make any contract respecting the purchase or sale, either upon credit or upon margin, of any securities or commodities wherein both parties do not intend, or such keeper does not intend, the actual or bona fide receipt or delivery of such securities or commodities, but do intend, or such keeper does intend, a settlement of such contract based upon the differences in such public market quotations of prices at which said securities or commodities are or are asserted to be bought and sold.

"Sec. 869b. Any person who makes or offers to make any contract defined in the preceding section, or who is the keeper of any bucket shop, shall, upon conviction thereof, be punished by a fine not exceeding \$1,000 or by imprisonment for not more than one year. Any person who shall be convicted of a second offense shall be punished by imprisonment for not more than five years. The continuing of the keeping of a bucket shop by any person after the first conviction thereof shall be deemed a second offense under this act. If a domestic corporation shall be convicted of a second offense, the supreme court of the District of Columbia shall have jurisdiction, upon an information in equity in the name of the United States district attorney for the District of Columbia, on the relation of the Commissioners of the District of Columbia, to dissolve the corporation; and if a foreign corporation shall be convicted of a second offense, the supreme court of the District of Columbia shall have jurisdiction, in the same manner, to restrain the corporation from doing business in the District of Columbia.

"Sec. 869c. Any person who shall communicate, receive, exhibit, or display in any manner any statement of quotations of prices of any securities or commodities with an intent to make, or offer to make, or to aid in making, or offering to make any contract prohibited by this act, upon conviction thereof shall be subject to the penalties provided in the preceding section.

"Sec. 869d. Every person shall furnish, upon demand, to any customer or principal for whom such person has executed any order for the actual purchase or sale of any securities or commodities, either for immediate or future delivery, a written statement, containing the names of the persons from whom such property was bought or to whom it has been sold, as the fact may be, the time when, place where, and the price at which the same was either bought or sold; and if such person shall refuse or neglect to furnish such statement within twenty-four hours after such demand such refusal or neglect shall be prima facie evidence that such purchase or sale was bucketing or bucket shopping within the terms of this act."

Mr. SMITH of Michigan. Mr. Speaker, I yield to the gentleman from Kansas [Mr. CAMPBELL] such time as he desires.

Mr. CAMPBELL. Mr. Speaker, this bill is modeled after the law now in force in the State of Massachusetts and the law that was enacted last winter in the State of New York. I was in correspondence with the secretary of the senate of the State of New York during the time that this bill was before the committee, and I have a copy of the bill as it was reported by the senate committee to the New York senate, and also a copy as it was passed by that senate, the bill having previously passed the New York assembly. The sections are transposed in some instances, but in every section throughout the entire bill the intent and language are practically the same as the bill now before the House.

Mr. MANN. That is the New York law?

Mr. CAMPBELL. Yes. The New York law passed last winter. In a letter that I do not now find among my papers, written by the governor of Massachusetts, he states that the law has worked well there, considering the shortness of the time it has been in operation. The bill went into effect in

Massachusetts, I think, in the summer of 1907, and had only been in operation for some four or five months at the time the governor wrote concerning the matter.

Mr. MANN. We have a very effective antibucket-shop law in force in the State of Illinois. In the gentleman's investigations has he examined that law?

Mr. CAMPBELL. I examined the Illinois law very carefully.

Mr. MANN. Is it substantially the same as this bill?

Mr. CAMPBELL. Yes; as strong in some particulars as the law I propose here. All these laws tend in the same direction. The language differs and the punishment differs, in many instances, but the intent and practically the language of all the laws in all the States that I have examined are along the same lines and have the same purpose.

There are about fifteen known bucket shops in the District of Columbia, or were last winter. There are other places in the back ends of saloons and other resorts where wagers are laid on the prices of securities and commodities. They have a ticker, and margins are dealt in the same as in the more openly conducted bucket shops.

Mr. ADAIR. Mr. Speaker, is this a copy of the New York law practically?

Mr. CAMPBELL. Yes. However, it is more proper to say that it is a copy of the Massachusetts law. The New York law is a copy of the Massachusetts law.

Mr. ADAIR. And has it been successful in the State of New York?

Mr. CAMPBELL. It has just gone into effect there.

Mr. ADAIR. Are there any bucket shops in operation in the State of New York?

Mr. CAMPBELL. I think it is safe to say that there is some bucketing done in the State of New York.

Mr. Speaker, gambling in the price of stocks and commodities has been the subject of regulation and prohibitive legislation in Arkansas, California, Colorado, Connecticut, Georgia, Illinois, Iowa, Kansas, Louisiana, Mississippi, Michigan, Massachusetts, Missouri, North Carolina, New Hampshire, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, and Wisconsin.

The constitutions of California and Louisiana prohibit dealing in stocks on margins and for future delivery.

The intent and purpose of the law in all cases is to prohibit the gambling that is done in the price of stocks, securities, and commodities.

Gambling in stocks and food commodities has been a subject of discussion in many of the countries of the world. Within the past ten years the subject has been under consideration in some form or other by the Argentine Republic, Austria, Belgium, Bulgaria, Denmark, France, Germany, Greece, Hungary, Italy, the Netherlands, Norway, Portugal, Roumania, Russia, Servia, Spain, Sweden, and Switzerland.

The Canadian government has passed an effective law upon the subject. Throughout European countries a popular protest has arisen against gambling on the prices of farm products, the necessities of life.

It is wise to prohibit this species of gambling that is widely indulged in and most injurious in its consequences. Men who can ill afford to lose, gamble and lose their money in bucket shops and stock exchanges, betting on the differences in prices of stocks and commodities. Thousands have thought they could win in stock and grain gambling and have gone to their ruin. They have started in the bucket shop on a small scale, settling the differences between prices, and ended in ruin, the penitentiary, or the grave of a suicide.

It is estimated that within the last twenty-five years \$2,500,000,000 have been lost in this species of gambling by those who could not afford to lose.

Embezzlement, imprisonment, ruin, suicide, and panic have been the results. Some of the principal victims were recently mentioned in a New York paper. I call attention to them here. Their experience should not be lost to others and to the country:

1884. The Marine National Bank of New York City was looted by two of its directors, who, in their Wall street speculations on margins, lost \$2,000,000. The Second National Bank, through the Wall street speculations of John C. Eno, its president, lost \$4,000,000.

1891. John T. Hill, president of the Ninth National Bank of New York City, speculated away \$400,000.

1894. Frederick Baker, a depositor, and Samuel C. Seely, bookkeeper in the National Shoe and Leather Bank of New York City, lost \$354,000.

1895. Frank C. Marvin, lawyer, Brooklyn, \$75,000.

1898. John S. Hopkins, cashier of the People's Bank of Philadelphia, lost the bank's funds in speculation and killed himself, \$700,000.

The Chemical National Bank of New York City, lost, through "mistakes of judgment" on the part of the cashier, \$393,000.

Ex-Mayor F. H. Twitwell, of Bath, Me., \$60,000.

1899. George M. Valentine, cashier of the Middlesex County Bank and treasurer of the Perth Amboy (N. J.) Savings Institution, confessed to losing in speculation \$125,000.

1900. Cornelius J. Alvord, jr., note teller of the First National Bank of New York City, lost in stock speculation \$690,000.

William Schreiber, clerk in the Elizabeth Banking Company, Elizabeth, N. J., squandered in Wall street \$106,000.

A confidential clerk of a wholesale house in Walker street, New York City, lost in Wall street \$200,000.

1903. Frank V. La Bountie, confidential clerk for law firm of Wilson & Smith, of Chicago, \$500,000.

William S. Allen, treasurer Preachers' Aid Society, Boston, \$70,000.

United States Playing Card Company, of Cincinnati, robbed by a trusted woman employee of \$100,000.

Enoch L. Cowart, cashier of the Navesink (N. J.) Bank, \$40,000.

John A. Scott, cashier of the New York office of the London Assurance Company, \$25,000.

William B. Given, president of the Lancaster County (Pa.) Railway and Light Company, \$100,000.

Thomas W. Dewey, cashier of the Farmers and Merchants' Bank, of Newbern, N. C., \$125,000.

James M. Watson, jr., clerk for auditor of the District of Columbia, \$100,000.

Trusted clerk at the Hotel Beresford, in New York City, \$50,000.

1904. Arnold Beathlen, cashier of a bank at West Liberty, Pa., \$85,000.

John F. Goggin, treasurer of the Nashua Trust Company, of Nashua, N. H., arrested, charged with defalcation of \$100,000.

George A. Rose, cashier of the Produce Exchange Banking Company of Cleveland, \$170,000.

Wallace H. Ham, Boston agent of the American Surety Company, of New York City, \$286,000.

Ex-Mayor S. F. Smith, of Davenport, Iowa, \$150,000.

F. H. Cutting, bank president, of Ota, Iowa, \$112,000.

1905. Ex-Tax Collector E. J. Smith, of San Francisco, \$60,000.

Paul O. Stensland, Chicago banker, who was captured abroad, \$1,500,000.

Cashier of the Cornwall (N. Y.) Bank, \$45,000.

W. W. Karr, accountant of the Smithsonian Institution, Washington, D. C., \$50,000.

Mayor William H. Belcher, Paterson, N. J., \$150,000.

Frank G. Bigelow, head of the First National Bank of Milwaukee, \$1,450,000.

F. H. Palmer, cashier of the State Bank, Peconic, Long Island, \$40,000.

Denver (Colo.) Savings Bank, looted by speculating officials of \$1,700,000.

Newton C. Dougherty, superintendent of schools, Peoria, Ill., \$250,000.

T. Lee Clarke, cashier of the Enterprise (Pa.) Bank, \$1,200,000.

F. R. Green, cashier Fredonia National Bank, \$300,000.

1906. Joseph A. Turney, note teller in the National Bank of North America, of New York City, took from the institution and lost in Wall street \$34,000.

County Treasurer F. E. Smith, of Akron, Ohio, \$282,000.

Gordon Dubose, president of the First National Bank, Ensley, Ala., \$40,000.

Frank K. Hipple, president of the Real Estate Trust Company of Philadelphia, \$7,000,000.

C. S. Hixon, bookkeeper, Union Trust Company of Pittsburg, \$125,000.

1907. Charles T. Barney, president of the Knickerbocker Trust Company, who killed himself when the financial crash came. It is estimated by his close friends that the total amount lost by him in speculation was almost \$10,000,000.

F. Augustus Heinze, whose losses in the market fluctuations, according to a statement made by him to a friend, were \$9,000,000.

Charles W. Morse, whilom "ice king," "steamboat king," and "bank chainer," whose losses in market fluctuations are figured at \$20,000,000.

Chester Runyan, bank clerk, New York City, \$86,000.

George H. Brouwer, known as the "soul of honor," confidential man for James H. Oilphant & Co., stockbrokers, of New York City, \$90,000.

Clerk for the tax collector of New Orleans, \$100,000.

William F. Walker, treasurer of the New Britain (Conn.) Savings Bank, \$600,000.

Miss Flora Steipel, cashier in a Philadelphia department store, \$25,000.

Oliver M. Dennett and William O. Douglass stole \$1,300,000 in securities from the Trust Company of America and pawned them for \$140,000.

Mr. Speaker, these enormous losses were the result of gambling in the price of stocks and commodities—not in the legitimate purchase of railroad or industrial stocks, or grain, or cotton, or produce of any character. It was not investment; it was gambling in options, futures, and the differences in prices of the products of the farm and stocks and securities of the transportation and industrial companies of the country.

It is safe to add to the injury that falls to the lot of the unfortunate individual who thus "speculates" and loses, and his family, the injury that comes to the whole country. Gambling on the price of other people's property, too often with other people's money, has more than once led the country into financial panics that have had a most harmful effect upon the otherwise prosperous business of the country. Thousands of industrious men, through no fault of theirs, have been thrown out of employment because other men gambled on the differences in the prices of the property they produced or worked with.

Mr. Speaker, the Wall street panic of 1901 was the result of fraudulent stock manipulation and gambling, and the whole country narrowly escaped disastrous results from that fraudulent manipulation and gambling. It was all done by a few individuals.

The incipient panic of 1903 was started by Wall street gamblers, and the financial panic of October, 1907, was started in Wall street and was the collapse after a debauch in wild and excessive gambling, largely in the prices of stocks that were

owned by an innocent public—stocks that were not bought and sold in good faith on the exchanges. Money was borrowed in large amounts for which there was not ample security. This money had been attracted from country banks in almost every State in the Union by offers from Wall street banks of attractive rates of interest on daily balances. The interest offered was a higher rate than could be paid by manufacturers, jobbers, and merchants, or grain or cattle dealers who were doing a legitimate business for a fair profit.

I have no hesitation in saying that the panic was brought on by gambling with other people's money on the differences in prices of other people's property.

I would not stop investment and speculation on the stock exchanges, which promote large enterprises and float the stocks and bonds of the great industrial and transportation concerns of the country. Not at all. I would help rather than hinder investment and proper speculation in real stocks and real bonds and real grain and real cotton and real products of every sort that are sold in good faith and delivered in good faith, where the owner through his agent wants to sell and the buyer through his agent wants to invest.

I would protect honest investors and speculators in all these stocks, securities, and commodities from gambling and fraudulent manipulation in the prices of the stocks, bonds, grain, cotton, and other property of the country.

These gamblers never buy nor sell in good faith. I assert, without fear of successful contradiction by anyone, that over 90 per cent of the transactions on all the stock exchanges in Wall street or on the board of trade in Chicago or elsewhere in the country is a gamble on the differences in prices.

I assert here that in less than 10 per cent of the transactions on these exchanges that purport to be sales and purchases there is no real delivery in good faith by a seller to a buyer who wants to invest and become the owner of the property and secure the dividends or interest that may be earned. Actual delivery of the specific property is not made or intended to be made, and the alleged buyers do not want the stock they pretend to purchase as an investment.

Why, Mr. Speaker, to the actual investor and to the man who speculates on his best judgment, the dividends paid by a concern would largely control him in the price he would pay for its stocks or bonds, and yet it is actually true that on the stock exchanges in Wall street and elsewhere in the country the prices of stocks and bonds are not controlled by this standard of value.

On the 3d day of April, 1907, the Associated Press gave out this bit of news:

NEW YORK, April 3, 1907.

A market in which good news is good only until it gets out is not a very robust bull market. Just before the announcement of the increase in the Atchafalpa dividend was made the stock sold at 94½. A few minutes later the price dropped to 94, and within half an hour it was fully a point down from the high morning and more than two points from the highest level touched in the rise on Tuesday.

But that is not all. The income of the railroads of the country gradually increased from \$875 to \$1,180 in a single year, and yet by a shrewd manipulation of railroad stocks within this period the prices were forced down or up to suit the demands of a gambling enterprise. What is actually done on the exchanges denies that they are conducted solely for real investors or speculators where property is sold and delivered in good faith.

The influence of these gambling prices upon the business of the country can not be anything but bad.

There are 35 banks, 29 trust companies, 9 safe deposit companies, the general offices of 52 railroads, 46 fire and 18 life insurance companies, 6 express companies, 21 telegraph, 18 steamship, and 42 coal, iron, steel, and copper companies, and more than 200 other large industrial and transportation corporations in the financial district that surrounds the stock exchanges in Wall street. Every one of these enterprises is keenly sensitive to and affected by the manipulations that go on on the exchanges.

A recent editorial in the New York World is so full of valuable information on this subject that I shall take the liberty of quoting from it. I take it that a New York paper would be fair with Wall street, the stock exchanges, and the banks of its city. It says:

Nowhere on the earth does another such gambling institution exist as finds shelter in the New York Stock Exchange—an unincorporated irresponsible institution. According to the statistics carefully compiled by James Greelman in Pearson's Magazine, there were sold in 1906 on the stock exchange 286,418,601 shares of stock of the par value of \$25,000,000,000, besides 665,000 thousand-dollar bonds; on the Consolidated Exchange 136,000,760 shares of stock, besides 21,569,178 shares of mining stock and 183,884,000 bushels of wheat. This does not include curb sales.

These gambling transactions amount to over \$30,000,000,000—four times the value of the products of all the farms of the United States, half the value of all the land and buildings, one third the census valuation of all the wealth of every kind in the country.

Last year there were sold on the stock exchange 43,399,710 shares of Reading, fifteen times the total amount of Reading stock in existence. Of the Union Pacific, Harriman's road, there were sold 36,751,600 shares, twenty times as much as existed.

Ninety-one and one-half per cent of these transactions, according to Thomas W. Lawson, are nothing except bets that the price goes up or down. They are as much gambling as betting on a horse race or on the card that comes out of the faro box, or on the odd-or-even fall of the dice.

Mr. Speaker, this is gambling on a colossal scale. Carried on as it is, it takes the money of the country out of legitimate channels of trade, where interest rates are largely controlled by the sober business judgment of business men who do a fair business for a fair profit. They can not compete in the payment of interest rates with reckless gamblers, and banks that wince under the criticism that they are not conservative and careful with the money of their depositors take their chances with these gamblers too often, to the injury of their depositors and the country.

The panic of 1907, I say again, was largely due to the banks that cater to the stock gamblers, absorbing a large portion of the money of the country to be used by men engaged in reckless gambling. They were willing to pay any rate of interest that was necessary to obtain the money.

In no other country than the United States are incorporated banks permitted to be a part of the machinery of stock gambling. In no other country are the methods of stock gamblers such as to require the constant use for that sole purpose of hundreds of millions of dollars of other people's money. In London, Paris, Berlin, Frankfurt, and Amsterdam gamblers in stock must use their own money and their own credit as if they were playing at Monte Carlo instead of on a stock exchange.

This difference in stock gambling accounts for the great fluctuations in the rates of interest in New York as compared with the stability of European financial centers. In New York call money may be 3 per cent one day and 50 per cent the next day, which is unknown in Europe.

By bidding up the rate of interest higher than legitimate business can pay, stock gamblers are able to draw from productive industry its means for supplying pay rolls, for carrying on manufacturing, for distributing goods, and for moving crops.

This drains the reserve money of the United States to Wall street. A commercial bank, charging merchants and manufacturers 6 per cent interest, can not afford to pay interest on deposits in competition with the Wall street banks, which can frequently get 20 to 50 per cent on the stock exchange for the use of their deposits. Thus this reserve money gravitates to the banks that can afford to pay high interest.

Wall street in this way became a great funnel into which the savings of the people, instead of being available to the local manufacturer or the local storekeeper, were driven by higher rates of interest to the stock exchanges.

Without the banks' assistance this whole system would be destroyed and the stock gamblers in New York would have to gamble as do the stock gamblers in London, Paris, Frankfurt, and other European bourses where the form of actual delivery in speculative transactions is not gone through with. Such a thing as a London stockbroker having the Bank of England or a Paris broker the Bank of France certify his check in advance and thus furnish the funds for him to gamble with is unheard of. The European stockbrokers gamble as do the London race-track bookmakers, who have their regular settlement day at Tattersalls.

The forms which the New York and Chicago stock exchanges go through to evade the gambling laws are in vogue nowhere else.

The French and German Governments treat stock gambling somewhat as race-track gambling is now treated in this country. But these continental governments go further. They even decide in what stocks and bonds they will allow gambling, many of them forbidding gambling in the price of farm products.

If it is important to stop betting on cards, roulette, and horse racing—and it is—how much more important that we should rid legitimate business of the contaminating evil of Wall street and board of trade gambling.

This bill will stop betting on the price of other people's property here. I hope the bill will pass.

Mr. GAINES of Tennessee. I want to ask the gentleman from Kansas if he will not accept an amendment in the nature of an additional section to read something like this:

Sec. 869e. That the court having jurisdiction shall charge the grand jury each term to investigate violations of this act.

Mr. CAMPBELL. I should have no objection to that.

Mr. MANN. I want to say that we have a provision of that sort in the law in Illinois, and if it has any tendency at all it is to make of it a farce, because to charge a grand jury—with us every month—with the same thing where there is no offense committed, and no consideration given to the subject in the end, tends to make a laughing matter of it; and for years that was the result. We enforce the law now, but not on account of that provision.

Mr. GAINES of Tennessee. I do not think it will do any harm.

Mr. MANN. It has done harm with us, and I am sure no one would be in favor of putting it in the law again.

Mr. GAINES of Tennessee. This House has heretofore adopted similar measures. The gentleman says: "What is the use of charging the grand jury when there are no bucket shops and no violations of the law?" Then the grand jury would be very brief in their investigation and thus deter their coming. But the gentleman from Kansas says that there are a number of bucket shops all over the District of Columbia. Now, if there are five or six dozen—some on top of the ground and some under the ground, some in the garrets of the hotels and some in the cellar—the grand jury would be very apt, if they were charged every term to investigate the violations, in the course of twelve months to get all of these broken up, and thus the grand jury could attend to this matter in a few months. I think it will do no harm to adopt the amendment, and I hope the gentleman from Kansas will accept it. This amendment will show the court that Congress deems the evil very dangerous and should be wiped out.

Mr. CAMPBELL. I shall offer no objection to the amendment of the gentleman from Tennessee. I will yield to the gentleman from Tennessee to offer the amendment.

Mr. GAINES of Tennessee. Then, Mr. Speaker, I offer the amendment.

The Clerk read as follows:

SEC. 869e. Courts having jurisdiction shall charge the grand jury each term to investigate violations of this act.

Mr. CAMPBELL. The amendment will be considered as pending. I had just started, Mr. Speaker, to say that the District of Columbia Commissioners are anxious that this shall become a law. They had to resort to prosecutions for bucketing and bucket-shop keeping under the general gaming laws last winter. They want a law that is specific on the subject, and are anxious that this bill as reported by the committee shall become a law. Now, if there is nothing further to be said on the subject, I ask for a vote.

Mr. GILLET. Mr. Speaker, I wish to submit an amendment.

The SPEAKER. Does it relate to the amendment offered by the gentleman from Tennessee?

Mr. GILLET. No; it is a separate amendment.

The SPEAKER. The question is on the amendment offered by the gentleman from Tennessee.

The question was taken, and the amendment was agreed to.

Mr. GILLET. Now, Mr. Speaker, I offer the following amendment.

The Clerk read as follows:

SEC. 869f. Any person who, with intent to conduct, promote, or carry on in any manner whatever any "bucket shop," or who, with intent to aid, assist, or abet in the conducting, promoting, or carrying on of any such "bucket shop," shall deposit with, send, or transmit by any telegraph company or telephone company, or by any wire owned or controlled or leased by any such corporation, any dispatch, message, or market quotation from one State or Territory into another State or Territory, or from or into the District of Columbia, shall be guilty of a misdemeanor, and shall be punished for the first offense by a fine not exceeding \$1,000 or by imprisonment for not more than one year, and for the second and each other offense punished by imprisonment for not more than five years.

SEC. 869g. No common carrier, or corporation, or employee thereof, shall receive for transmission, or transmit, or send from one State or Territory into another State or Territory, or from or into the District of Columbia, any dispatch, message, or market quotation prohibited by section 869f of this act; and every person who shall willfully violate any of the provisions of this section shall be deemed guilty of a misdemeanor and shall be liable to the same penalties as provided in section 869f.

SEC. 869h. No common carrier, corporation, or person engaged in the business of conveying for hire messages, news, or information from one State to another by telegraph or telephone shall purchase or receive the market quotations of any exchange or board of trade in one State and transmit or deliver or sell them to any person, association, partnership, or corporation, who or which, in his, its, or their own behalf, or as agent, is engaged in another State in the business of conducting a "bucket shop;" and no such common carrier, corporation, or person, shall permit any telegraph or telephone wire owned, controlled, or leased by it or him, to any other person, to be used to convey or transmit such market quotations from one State to any person, association, partnership, or corporation, who or which, in his, its, or their own behalf, or as agent, is engaged in the business of conducting in another State such "bucket shop;" and every such common carrier, corporation, or person, and every officer and agent thereof who shall willfully violate any of the provisions of this section shall be deemed guilty of a misdemeanor and shall be liable to the same penalties and punishment as provided in section 869f hereof.

Mr. FITZGERALD. Mr. Speaker, I make the point of order that the amendment is not germane to the bill. This is a bill to prohibit the maintenance and establishment of bucket shops in the District of Columbia. It has been carefully considered by the committee, and I understand there is no objection to it. This proposed amendment attempts to regulate the business of the telegraph and telephone companies and other common carriers in their transactions through the various States. Unless the matter is very carefully considered by some committee, I do not propose, if I can prevent it, to have the matter disposed of in this way.

Mr. GILLET. Mr. Speaker, this undoubtedly does refer to others besides the District, but it also applies and directly carries out the objects of this bill, which are to prevent bucket shopping here. Now, one of the best ways to prevent that is to prevent the bucket shops here from getting the information upon which their existence depends, and therefore so far my amendment explicitly carries out the purposes of the act. It does also go farther. It also forbids any common carriers in the United States assisting bucket shops anywhere in the United States, and I am sorry that my friend objects to so worthy a proposition.

Mr. FITZGERALD. Mr. Speaker, I am not sure that it is a worthy proposition. That is the difficulty. The gentleman offers an amendment and it is impossible to tell either what its effect will be or what it means, and under the methods in which the business of this House is done I propose to have such amendment properly considered and properly framed before I shall give my consent to it.

Mr. GILLET. May I ask the gentleman a question?

Mr. FITZGERALD. Yes.

Mr. GILLET. Why he considers that it is impossible to understand it. It seems to me that it is very lucid.

Mr. FITZGERALD. Oh, I suppose it is because of my lack of comprehension and not because of the lack of ability on the part of the gentleman to properly frame it, and upon that ground alone I am satisfied to insist on my objection.

The SPEAKER. The Chair is prepared to rule. This is a bill "to amend an act entitled 'An act to establish a code of law for the District of Columbia, relative to gambling, bucket shops, and bucketing.'" The amendment applies not only to the District of Columbia, but journeys elsewhere. The scope of the amendment applies to the various States and Territories and to commerce among the States. It seems to the Chair it is not germane, and the Chair therefore sustains the point of order.

Mr. CAMPBELL. Mr. Speaker, I call for a vote.

The SPEAKER. The question is on the engrossment and third reading of the bill as amended.

The bill was ordered to be engrossed and read a third time, read the third time, and passed.

On motion of Mr. CAMPBELL, a motion to reconsider the last vote was laid on the table.

SALE OF GAS, DISTRICT OF COLUMBIA.

Mr. SMITH of Michigan. Mr. Speaker, I call up the bill (H. R. 18513) to repeal section 5 of an act entitled "An act relative to the sale of gas in the District of Columbia," approved June 6, 1896, which I send to the Clerk's desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That section 5 of an act entitled "An act relating to the sale of gas in the District of Columbia," approved June 6, 1896, and all remedies therein provided, be, and the same are hereby, repealed, and all pending proceedings thereunder shall be vacated, and no judgment, decree, finding, permit, or valuation of any kind mentioned or intended to be mentioned in said section shall be made or ascertained.

Mr. SMITH of Michigan. Mr. Speaker, I am going to ask that the report accompanying this bill be printed in the Record.

The SPEAKER. The gentleman from Michigan asks unanimous consent that the report accompanying this bill be printed in the Record. Is there objection? The Chair hears none, and it is so ordered.

The SPEAKER. The question is on the engrossment and third reading of the bill.

Mr. MANN. O Mr. Speaker, let us know what it is.

Mr. HEPBURN. Is there to be no explanation of this bill?

Mr. SMITH of Michigan. Is there any objection to the report being read?

Mr. MANN. That has been disposed of.

The SPEAKER. Unanimous consent has been given that the report shall be printed in the Record.

Mr. SMITH of Michigan. I intended to ask to have it read.

The SPEAKER. If the gentleman desires in his own time or the time of any other gentleman who takes the floor, that may be done.

Mr. SMITH of Michigan. I yield to the gentleman from Kansas.

Mr. CAMPBELL. Mr. Speaker, if the gentleman from Michigan will withdraw his request to have the report printed in the RECORD, I will ask unanimous consent to have it read in my time.

Mr. SMITH of Michigan. Very well. That is perfectly immaterial to me.

The SPEAKER. The gentleman from Kansas asks unanimous consent that the privilege to print the report in the RECORD, which was granted by unanimous consent, be canceled.

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to suggest to the gentleman that reading a report from the Clerk's desk is of very little practical value in the explanation of a bill, and certainly the committee owes it to the House that some one make an oral statement of the real facts in the case.

Mr. SMITH of Michigan. Oh, that will be done.

Mr. MANN. Let the report be printed in the RECORD. I therefore object to the request.

The SPEAKER. The gentleman from Illinois objects.

Mr. MANN. Let us have an explanation of the bill.

The report is as follows:

The Committee on the District of Columbia, to whom was referred the bill (H. R. 18513) "to repeal section 5 of an act entitled 'An act relating to the sale of gas in the District of Columbia,' approved June 6, 1896," report the same back to the House with the recommendation that it do pass.

Two gas companies supply gas in the District of Columbia. The larger of the two companies is the Washington Gaslight Company, which was incorporated by act of Congress passed July 8, 1848 (9 Stat. L., 702), with a capital stock of \$50,000, and it supplies the territory east of Rock Creek. The smaller company is the Georgetown Gaslight Company, which supplies the territory west of Rock Creek. It was incorporated July 20, 1854 (10 Stat. L., 786), with a capital stock not to exceed \$150,000. This sum represents its present capital stock.

The capital stock of the Washington Gaslight Company has been increased from time to time, and at present its authorized capital stock is \$2,600,000.

Capital stock of the Washington Gaslight Company.

July 8, 1848 (9 Stat. L., 702), charter	\$50,000
August 2, 1852 (10 Stat. L., 734), increase of	300,000
January 3, 1855 (10 Stat. L., 835), increase of	150,000
May 24, 1866 (14 Stat. L., 53), increase of	500,000
May 29, 1872 (17 Stat. L., 192), increase of	200,000

NOTE.—With the privilege of increasing the capital stock \$1,000,000 (the said increase not to be made from undivided profits accrued or thereafter to accrue)—

between 1873 and 1876 there was paid in	300,000
and between 1876 and 1882	500,000

was issued to stockholders share for share. (See statement of the Washington Gaslight Company, p. 6, report of Senate committee to accompany S. 2918, dated July 7, 1886.)

June 6, 1896, section 5 (29 Stat. L., 251), increase of	600,000
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Total amount of authorized capital stock	2,600,000
Certificates of indebtedness outstanding bearing 6 per cent interest per annum	2,600,000

Five hundred thousand dollars of capital stock of the Washington Gaslight Company has been distributed as stock dividends and \$2,600,000 of stock dividends in form of certificates of indebtedness has been issued, making in the aggregate \$3,100,000 extra stock dividends.

The object of the present bill is to repeal section 5 of the act of June 6, 1896. That section reads as follows:

"That neither the Washington Gaslight Company nor the Georgetown Gaslight Company shall hereafter issue any greater number of shares of stock than shall be equal to the actual cash value of said plants and necessary cost of the construction of future extensions or future enlargement of plants, which cash value and cost of extensions shall first be ascertained and authorized upon petition therefor to the supreme court of the District of Columbia under such regulations as the chief justice and the justices thereof shall prescribe; also, if either of the said corporations shall desire hereafter to issue bonds upon their property, secured by mortgage or otherwise, upon petition therefor to said court, setting forth the necessity thereof and the amount of stock issued and outstanding, it may be and shall be lawful for said court, or the chief justice and justices thereof, as the case may be, or one of them, upon public notice, to be prescribed by the rules of said court, to permit the issuance of such bonds and mortgage as desired: *Provided*, That the amount of stock and bonds issued shall not exceed the actual cash value of said plants and the cost of such extensions or enlargement of plants: *And provided further*, That the Washington Gaslight Company is hereby authorized to issue such additional amount of capital stock as will provide for the conversion into such stock of its outstanding certificates of indebtedness, which conversion of said certificates is hereby authorized to an amount not exceeding \$600,000."

In June, 1907, the supreme court of the District of Columbia, in general term, passed a rule for procedure under said section.

No action was taken under section 5 of this act by either of the gas companies until the month of June, 1907, when the Georgetown Gaslight Company filed its ex parte petition in the supreme court of the District of Columbia, setting forth that its stock had been fully paid; that it had issued no bonds; that its entire floating debt did not exceed \$60,000, and that it desired to issue additional stock to equal the total cash value of its plant and the extensions and enlargements thereof, as provided in said section 5 of the act of June 6, 1896. A copy of this petition, with rule to show cause, was served on the Attorney-General of the United States, who appeared in the case by the United States attorney, and on the Commissioners of the District of Columbia. The cause was referred to the auditor of that court (whose office is that of a master in chancery) to take testimony on the actual cash value of the plant. Testimony was taken before him, and he has filed his report, but it has not been confirmed because of legal proceedings in the case

of the Washington Gaslight Company. A summary of the auditor's report shows:

Valuation of Georgetown Gaslight Company property.

Land	\$42,823.90
Buildings	42,705.30
Apparatus	59,108.50
Gas holders	36,300.00
Street mains	167,030.60
595 street-lamp services	5,950.00
225 lampposts	1,575.00
Consumers' meters and connections	18,623.00
Working capital	30,000.00
Value of franchise, rights, and good will	66,661.00

Total actual cash value	470,777.30
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In his valuation of the company's "plant" the auditor included the value of its land, buildings and machinery, apparatus, personal property, street mains, gas holders, consumers' meters, working capital (\$30,000), value of franchise, rights, and good will (\$66,661), but did not allow the gas company for 2,025 consumers' service pipes leading from the main to the house meter paid for by the consumer, although the company claimed that these services should be valued at \$16 each. Exceptions have been filed to this report by the corporation counsel on behalf of the Commissioners of the District of Columbia, particularly in reference to the valuation as part of the "plant," of franchise, rights, and good will, and working capital. These exceptions are pending and have not been heard because the Washington Gaslight Company on November 5, 1907, filed its petition in the same court for the ascertainment of the actual cash value of its "plant" and the cost of future extensions or enlargement of the same. The Commissioners of the District of Columbia appeared, by the corporation counsel, and presented a motion to dismiss the petition on the ground that section 5 of the act of June 6, 1896, was unconstitutional in that, among other reasons, the power given the court was not a judicial power. The court overruled the motion. An application was made to the court of appeals of the District of Columbia for a writ of prohibition to the supreme court of the District of Columbia, which writ was awarded on the grounds mentioned, and all proceedings under section 5 have been stayed until the Supreme Court of the United States shall determine whether that section is constitutional and valid. The opinion of said court of appeals is reported in volume 36, No. 8, of the Washington Law Reporter, at page 114.

Aside from the fact that section 5 as it now stands has been declared unconstitutional by the court of appeals (whose decision is presumably correct) and should therefore be removed from the statute books, its practical effect is to deny adequate protection to the consumer and the public, because proceedings thereunder are ex parte, and the valuation to be made depends solely on witnesses furnished by the gas companies, and there are no funds which are available to the District of Columbia to employ experts to value the gas plants on the part of the public, and therefore no fair valuation can be had under the present law.

The corporation counsel was obliged to submit the case on the facts solely on cross-examination of the witnesses produced by the Georgetown Gaslight Company.

When the Georgetown Gaslight Company's case first came before the court, the presiding justice stated:

"The simple question here is to ascertain the cash value of the plant. The court has nothing to do with the subsequent action of the gas company in issuing new stock. It may not issue it, for all the court knows or cares. It simply ascertains the cash value of the plant, and presents that fact to the gas company for such action as it may deem proper to take in the premises. It occurs to the court that the most the representatives of the United States and the District of Columbia would be expected to do would be to see that the testimony presented was fair and subjected to the usual cross-examination for the purpose of testing its accuracy. That, however, is a matter for the representatives of the United States and the District."

There is, too, a serious ambiguity in the act in that the court is to ascertain the actual cash value of the "plant," which the auditor holds to mean franchises, rights, good will, and working capital, although the charters do not grant a perpetual franchise. The auditor has arrived at this conclusion on the ground that Congress intended to protect those who dealt in gas stocks. If this construction be sustained and the ex parte character of the judicial inquiry is to be maintained, these companies will be allowed to capitalize their profits furnished by the consumers of gas on the testimony of their own witnesses, and thereby secure a valuation which will, if it becomes vested by judicial decision, require reasonable profit thereon, and thus forever prevent a reduction of the price of gas below a fair profit on the accumulated profits of the gas companies, plus tangible property. The valuation of the plant of the gas companies and the price of gas can not be separated. Under the law the courts will not allow the question of the price of gas to be examined, but will capitalize earnings or dividends, thus authorizing the companies to charge a price for gas which will afford a fair return on such increased capital, although gas may be furnished at a less price for a fair profit without such increase of capital stock.

The repeal of the act will take nothing away from the companies or their stockholders, because they can still distribute their surplus earnings as dividends. Section 5 can be now repealed without injury to anyone, because no right has become vested by any judgment or decree.

Mr. BUTLER. Mr. Speaker—

The SPEAKER. Does the gentleman from Kansas yield to the gentleman from Pennsylvania?

Mr. CAMPBELL. Certainly.

Mr. BUTLER. Can not we have the report read; is there anything in it we should not hear?

Mr. CAMPBELL. I have just asked for that.

Mr. MANN. Oh, well, if gentlemen desire the report read, I withdraw my objection, but I had rather have the gentleman from Kansas explain it. I dare say the gentleman from Pennsylvania will not listen to it.

The SPEAKER. The gentleman from Kansas can have the report read in his own time.

Mr. CAMPBELL. Mr. Speaker, the purpose of this bill is to repeal section 5 of the gas act passed in 1896. Section 5 of that act gives the supreme court of the District of Columbia au-

thority to find the value of the gas properties here in the District. The section proposed to be repealed, I am informed, was agreed to in conference twelve years ago when a gas bill was before Congress, and that section did not have consideration in either the House or Senate at that time. Last year the Washington Gaslight Company filed a petition in the supreme court of the District petitioning the court to ascertain the value of its properties. The auditor for the District is ex officio or was made a master in chancery to take evidence as to the value of the gas plant and its property. The first objection to the section was made by the commissioners and by the corporation counsel when the method of ascertaining this value was under consideration by the court.

The court prescribed the rules under which evidence should be taken and the value of the property ascertained. These rules limited the investigation to the evidence offered by the petitioner, the gas company, and all the United States district attorney or the corporation counsel were permitted to do under the rules prescribed by the court was merely to cross-examine the witnesses offered by the gas company touching the several questions affecting the value of its property. Indeed, the question occurred to the commissioners for the first time, that they in any event had no appropriation out of which they could secure experts to make an investigation of the value of the property and offer evidence in the case. The commissioners before the committee insisted that under the procedure in the court they had no adequate opportunity of showing whether or not the value fixed by the gas company's officers and experts was a fair value or not. They were merely permitted to cross-examine the witnesses. It is contended by the corporation counsel that the value of the franchise, for example, was taken into consideration by the auditor in fixing the value of the company's property and that upon every ground they objected to that element in the value of the company's property.

The franchise cost the company nothing and it may be terminated by Congress at any time, yet it appeared in the evidence that the franchise and good will were estimated at \$66,661. The commissioners directed the corporation counsel to take every step that was open to him for the protection of the District and the consumers of the gas here from an unreasonable increase in the capital stock of the gas company. The corporation counsel, upon the instructions of the commissioners, went into court and filed every pleading that was available. The result of the efforts of the corporation counsel is, or was up to the time this report was made, the court of appeals of the District of Columbia had decided that section 5, under which the value of the gas property was ascertained, was unconstitutional, and the case has been taken to the Supreme Court of the United States and, I think, is pending there now. The question raised by the commissioners before the committee, and the appeal to it which led to a favorable report on the bill and its being here to-day, was upon this proposition: Under the interpretation of the court only the gas company may offer evidence in the hearing of the character provided for showing the value of the properties sought to be ascertained.

Mr. HEPBURN. May I ask the gentleman a question?

Mr. CAMPBELL. I yield with pleasure.

Mr. HEPBURN. There is a court of appeals that would have jurisdiction over the further progress of this case, is there not?

Mr. CAMPBELL. There is.

Mr. HEPBURN. What is the objection to pursuing the ordinary course and taking an appeal to determine this question of law? Is that not the proper course, rather than coming in here and asking for a law to be repealed? Is not this a question that ought to be determined—this matter of franchise—and whether or not that is a legitimate part of the plant, and ought not the Supreme Court to pass upon the question?

Mr. CAMPBELL. The case has gone to the Supreme Court of the United States upon that question. The case went to the Supreme Court upon the constitutionality of section 5 of the act.

Mr. HEPBURN. Is it not a wise thing to have the opinion of the Supreme Court upon this vexed question, as to whether or not a franchise is a part of the plant of a corporation?

Mr. CAMPBELL. That was not the question that was raised.

Mr. HEPBURN. I understood the gentleman to say that question was involved here and that the court had intimated—

Mr. CAMPBELL. That was a question of fact that was found by the auditor, he finding that the franchise was of value.

Mr. HEPBURN. But that question is in the case, is it not?

Mr. CAMPBELL. The question went to the court of appeals of the District of Columbia, and from there to the Supreme Court of the United States, on the constitutionality of the question as to whether or not the court had authority at all to merely find the value of a public-service corporation in the District of Columbia on an ex parte proceeding.

Mr. HEPBURN. But under the law as it now exists this other question might be determined by the Supreme Court?

Mr. CAMPBELL. Yes.

Mr. HEPBURN. And if you repeal this statute that question can not be determined, can it?

Mr. CAMPBELL. Not under this section, of course.

Mr. DRISCOLL. I would like to ask what the present price is.

Mr. CAMPBELL. The present price of gas in the District of Columbia is \$1 per thousand net.

Mr. DRISCOLL. How long since it has been reduced before?

Mr. CAMPBELL. On June 6, 1896.

Mr. DRISCOLL. What was it then?

Mr. CAMPBELL. Prior to that time \$1.25.

Mr. DRISCOLL. I wish to ask another question: Whether or not the Washington Gas Company and the Georgetown Gas Company are now consolidated?

Mr. CAMPBELL. They have not been consolidated; no.

Mr. DRISCOLL. They have not been consolidated legally, but have they been consolidated in doing business?

Mr. CAMPBELL. It is contended they are under the same general management.

Mr. DRISCOLL. I know that some years ago an effort was made to consolidate the companies here and get Congress to permit an increase of stock. Has there been any increase of stock on the part of those companies in the last two years?

Mr. CAMPBELL. There has been an increase of stock in the Washington Gaslight Company since its incorporation in 1848. It was first chartered with a capital stock of \$50,000. In 1852 that stock was increased \$300,000. Then, on January 3, 1855, it was increased \$150,000; May 24, 1876, it was increased \$500,000; May 29, 1872, it was increased \$200,000; between 1873 and 1876 there was paid in \$300,000, and between 1876 and 1882, \$500,000.

Mr. DRISCOLL. What do you mean by "paid in?"

Mr. CAMPBELL. The capital stock paid in.

Mr. DRISCOLL. Is it not a fact that practically all those increases were procured by earnings of the company?

Mr. CAMPBELL. That is the contention of those who are opposed to further inflation of the stock of these companies.

Mr. DRISCOLL. Is it not a fact, as developed by your investigations?

Mr. CAMPBELL. Well, we had hearings upon the subject, and there was very strong testimony tending to show that fact.

Mr. DRISCOLL. Now, on this examination for the purpose of determining the price of gas at 90 cents, what percentage does the committee allow of the stock as it is now—on the amount of stock which is now issued?

Mr. CAMPBELL. This not being a bill to fix the price of gas, we did not go into that question.

Mr. DRISCOLL. What does this bill do?

Mr. CAMPBELL. It simply repeals section 5 of the present act that authorizes the gas company to go into the courts here and have the courts find the value of their property with the view of issuing stock upon the value as found by the courts.

Mr. DRISCOLL. You have a bill here to-day fixing the price of gas, have you not?

Mr. CAMPBELL. I am not sure whether that bill is on the Calendar.

Mr. SMITH of Michigan. Yes; it is on the Calendar.

Mr. DRISCOLL. And it is to be called up within a few minutes, is it not?

Mr. SMITH of Michigan. We expect it will be.

Mr. DRISCOLL. I might as well ask now, then.

Mr. CAMPBELL. I am not prepared to answer on that. Wait until that bill comes up.

Mr. GAINES of Tennessee. Will the gentleman from Kansas [Mr. CAMPBELL] tell us if they want to repeal that law so as to wipe a lawsuit out of court?

Mr. CAMPBELL. There is a lawsuit here, but it is thought that this law is unjust to the District of Columbia and to the people here, in that it only permits evidence by the petitioner to show what the elements of value are that enter in the make-up of the stock of the company.

Mr. MURDOCK. Will the gentleman explain how we will find the valuation in case section 5 is repealed?

Mr. CAMPBELL. There would have to be some other method of ascertaining. My own opinion is that there should be a well-considered law to provide for ascertaining the value, and that that law should provide for the commissioners giving expert and other testimony as to the value of the property as well as the testimony that is given by the gas company.

Mr. MURDOCK. Just one more question: As section 5 stands, is the district government hurt in any way for the present?

Mr. CAMPBELL. Yes; the fear of those who have petitioned for the passage of this bill is, if this act stands and the Supreme

Court of the United States should say that the act providing for the method of ascertaining the value of the property was constitutional, then, without a proper hearing from the District side, the capital stock of this company might be very largely increased and the price of gas retained at a high figure on the claim that it was necessary to keep it up at that figure in order to pay dividends.

Mr. MILLER. Suppose this section 5 should be repealed, what law is there for the determination of the amount of stock that may be issued by these gas companies?

Mr. CAMPBELL. If it is repealed, there would be none.

Mr. MILLER. And they might issue any amount of stock without regard to the value.

Mr. CAMPBELL. They can not issue stock without authority of Congress.

Mr. BURLESON. It is the purpose of these proceedings now to prevent them from watering their stock.

Mr. MANN. No; it is not the purpose of the repeal of this act.

Mr. BURLESON. It is the purpose of the proceeding—that this section of the act is to enable them to water their stock, and the purpose of repealing the section of that act is to prevent them watering their stock.

Mr. ADAIR. Well, if this section is repealed, what effect would it have on the lawsuit?

Mr. CAMPBELL. It would leave the pending lawsuit suspended.

Mr. ADAIR. In other words, the purpose of this is to defeat the pending lawsuit.

Mr. CAMPBELL. No; that is not the purpose. That would be one of the effects. The purpose was to prevent an increase in the capital stock of these companies without a fair hearing from the commissioners' side of the case.

Mr. ADAIR. It would wipe out the lawsuit now pending.

Mr. CAMPBELL. It would wipe out the lawsuit in the United States Supreme Court.

Mr. DRISCOLL. Suppose this bill is not acted on and the law stands as it is, in your judgment would the company have power to issue stock without coming to Congress?

Mr. CAMPBELL. The only thing that they could do—

Mr. MANN. The gentleman misunderstands your question.

Mr. DRISCOLL. If this bill is not repealed, they have the authority?

Mr. CAMPBELL. If the court sustains the act, then they would have the authority to go ahead and increase their capital stock.

Mr. MANN. Will the gentleman allow me to ask him a question?

Mr. CAMPBELL. Yes.

Mr. MANN. Without regard to the act of 1896, this company, as I understand, either can not issue additional stock or else issue additional stock for cash capital paid in?

Mr. CAMPBELL. Yes.

Mr. MANN. But under section 5 in the act of 1896 there is a provision for the issuance of stock up to the cash value of the plant. The company claims that the cash value of the plant includes the value of the franchise?

Mr. CAMPBELL. Yes.

Mr. MANN. And the statute provides that if the court shall hold that their franchise is included in the value of the plant, then the court shall permit them to issue bonds and stocks up to the cash value of the plant without paying in another dollar of capital?

Mr. CAMPBELL. Yes.

Mr. MANN. And this bill we now have is designed to prevent the issuance of any more stock or bonds without paying in more capital?

Mr. CAMPBELL. That is the purpose of the bill.

Mr. DRISCOLL. Does it do that?

Mr. CAMPBELL. It certainly does.

Mr. MANN. Because, under the existing law, they can not issue capital without cash and without authority of Congress.

Mr. CAMPBELL. I call for a vote, Mr. Chairman.

Mr. SIMS. Mr. Speaker, I would like to explain the bill, because I have been asked to make a statement. I am sorry I have not the briefs on the part of the commissioners and also the briefs of the attorneys of the gas company, in order that the position of the two sides may be understood. I will explain it, so that we may fairly understand the purpose of the committee in this report, and it is a unanimous report, so that the House will understand what will be the effect of the passage of this bill and possibly what would be the effect if it is not passed.

In the first place there are two gas companies. One is the Georgetown Gas Company, the other is the Washington Gas-

light Company. I have been told that the same people own the stock in both companies, but I do not know how that is.

In 1896, before I had the honor to be a Member of this House, a bill passed the House reducing the price of gas in the District of Columbia. That bill went to the Senate, where an amendment was offered in substance providing that stock might be issued for further or future extensions, and when the bill finally went into conference the conferees brought out a section changing the proposition which had passed the Senate. It is that section that this bill now seeks to repeal. I hope I may have your attention while I read the section that we are trying to repeal. The House will understand how the section got into the bill. The object of that bill was not capitalization, but to reduce the price of gas.

The House passed the bill simply as a gas-reduction proposition, but when it got to the Senate these other amendments were offered, and it was stated on the floor of the House by one of the House conferees that it was impossible to pass the bill and get a reduction in the price of gas unless this section was accepted by the House. Upon that state of facts, as the debates show, it was accepted. The amendment was foreign to the object of the bill and had nothing to do with the proposition to reduce the price of gas. The section that we now seek to repeal is a limitation in negative form, not an enabling act, so to speak, but providing by implication the method by which future shares of stock might be issued. The section which we seek to repeal is as follows:

That neither the Washington Gaslight Company nor the Georgetown Gaslight Company shall hereafter issue any greater number of shares of stock than shall be equal to the actual cash value of said plants and necessary cost of the construction of future extensions or future enlargement of plants, which cash value and cost of extensions shall first be ascertained and authorized upon petition therefor to the supreme court of the District of Columbia, under such regulations as the chief justice and the justices thereof shall prescribe; also, if either of the said corporations shall desire hereafter to issue bonds upon their property, secured by mortgage or otherwise upon petition therefor to said court, setting forth the necessity thereof and the amount of stock issued and outstanding, it may be and shall be lawful for said court or the chief justice and justices thereof, as the case may be, or one of them, upon public notice, to be prescribed by the rules of said court, to permit the issuance of such bonds and mortgage as desired: *Provided*, That the amount of stock and bonds issued shall not exceed the actual cash value of said plants and the cost of such extensions or enlargement of plants: *And provided further*, That the Washington Gaslight Company is hereby authorized to issue such additional amount of capital stock as will provide for the conversion into such stock of its outstanding certificates of indebtedness, which conversion of said certificates is hereby authorized to an amount not exceeding \$600,000.

The attack upon this section is made upon the ground that it undertakes to and does confer upon the supreme court of the District of Columbia, as a court, powers not judicial but legislative, powers which do not belong to it under the Constitution. If I had the brief of the corporation counsel I could give you the details of the suit instituted, if you can call it a suit. One of the contentions is that it is not a suit; that it is not a case in court; and the court by its action sustained that proposition to the extent of not hearing anything from the commissioners, but held that its only function under this act was to ascertain the cash value of the plant, which it is insisted by the corporation counsel and the District Commissioners is not a judicial function or power. They insist that the act is void in conferring any such power upon the court. It is a close question. It might be possible that making the members of the court a commission or naming them as individuals to do a ministerial act might not invalidate the law; but the commissioners contend that the conferring upon a court of legislative or ministerial power, work of this kind which is, as they contend, in no sense judicial, is void.

But the Supreme Court entertained a petition as to the Georgetown Gaslight Company, and fixed the value, and in the elements of value it included "franchise rights and good will." There was no franchise here in the sense of a definite period of time, but like all our corporations in the District of Columbia the right to alter or repeal at any time was retained in Congress.

Mr. McGAVIN. If this case is decided along about next September or October, and section 5 is declared invalid, may not both of these companies issue an abundance of stock and bonds before Congress will have an opportunity to prevent their issuance?

Mr. SIMS. I am coming to that in the order of my statement, but I want to make my statement in order so you can understand it. The Washington Gaslight Company filed a petition in the court to have the actual value of their plant ascertained under this act. Pending that the commissioners, through the corporation counsel, made application in the court of appeals of the District of Columbia for a writ of prohibition upon the District supreme court on the ground that the act was

void. That case was tried by the court of appeals and that court held that this act was void as conferring power that was not judicial.

In other words, the only function of the court was not judicial; the only thing it had to do was to fix the value of the plant. This section does not determine whether the stocks shall be issued nor how much, but simply fixes the value—a mere report of a referee—and the court of appeals held that the act was void.

That case has been appealed to the Supreme Court of the United States, and is now pending before that court. The commissioners had a bill introduced—I say they had a bill introduced, I am speaking from information—to indefinitely suspend this section 5 of the act of 1896. Afterwards a bill was introduced to repeal it outright and prevent any further procedure under the section, because if it ought to be suspended it ought to be repealed, as the effect was intended to be the same in both cases.

Mr. MANN. If the gentleman will pardon me, I understood him to say that the court had nothing to do with the matter of issuing stock and bonds.

Mr. SIMS. The lower court so held.

Mr. MANN. But the statute says:

And shall be lawful for the said court, the chief justice and the associate justices thereof, as the case may be, or one of them, by public notice as described by the rules of said court to permit the issue of bonds and mortgages as desired.

Mr. SIMS. Yes; that is as to bonds and mortgages.

Mr. MANN. It covers the jurisdiction conferred in this case.

Mr. SIMS. Not having the ruling of the supreme court before me and stating from recollection—and I would be glad if any member of the committee would correct me if I am wrong—the supreme court held in the Georgetown proceeding that they had nothing to do under that provision but find the value of the plant. Then the company issued the stock or not in full volume of value found or less, just as the company might see proper under section 5 of the act of 1896.

Now, it is held by the corporation counsel that if a judicial finding of the actual cash value authorized by Congress is had, and stock issued to that amount, then the price of gas could never be reduced below the reasonable earnings upon that stock issue; not because this stock is outstanding, but because it is equivalent to and represents the actual value of the plant judicially determined.

The object of the commissioners in this bill is to have section 5 repealed and prevent further proceedings under it before the court acts, because they have no power to properly present to the court the interests of the consumer; that it is virtually in effect an ex parte proceeding as to the valuation of the property and the elements of value making it up, and that the consumer ought to have an opportunity through them to present their side of the case, which they claim under the holding of the Supreme Court, they were not permitted to do, and could not do.

Now, I want to say that I do not claim, under my investigation, that the capital stock of \$2,000,000 is not less than the actual value of the plant. I believe it is much less. I think that the gas company, or the gas companies, in the District of Columbia are the only public-service corporations here that are not overcapitalized, and grossly overcapitalized.

Now, it is the fear of the commissioners that through the process of this computation and finding of the value by the court, which the court has itemized, including the value of the franchise and good will, the franchise being given by act of Congress for no value received, repealable at any time, that stock should not be issued by judicial authorization upon the value of a franchise given by the people and have to pay earnings upon the stock based upon the value of that franchise. If something was paid for the franchise, or it had a definite time to run, they would have a right to issue stock to that extent as well as upon any other article of property.

Mr. BUTLER. Will the gentleman yield for a question?

Mr. SIMS. I will yield to the gentleman.

Mr. BUTLER. As near as I can understand, and I have been trying to understand the purpose of the committee in seeking the repeal of this law, the auditor has placed the valuation upon the franchise, rights, and good will of the corporation?

Mr. SIMS. That is right.

Mr. BUTLER. And the gentleman contends that it was not intended by the court to include in the value the franchise, rights, and good will. Therefore, if the auditor had not valued the franchise, rights, and good will, the repeal of this section might not be asked for.

Mr. SIMS. It might be asked for just the same.

Mr. BUTLER. I agree to that, but this is the reason why it is asked for at this time?

Mr. SIMS. Well, that is one of the reasons, and a very strong reason. A precedent should not be established in this District of valuing a franchise that is given to a public-service corporation, and stock issued upon it, if it is only \$25, should not be permitted by law, for every future corporation that seeks the same could get it, because we should have to put them all on the same basis and treat them all alike. Another thing: We all know that a franchise will increase in value with the increase of population in a city, with the increase of demand for gas and the use of the franchise. In the case of the Georgetown company, a very small company, it is valued at \$66,661. Evidently, upon the same basis, the franchise in the Washington Gaslight Company would be of very large value.

Suppose you go along and permit stock to be issued upon the value of the franchise, in a few years—five years or ten years—the franchise is worth much more than it was when the stock was issued upon it, and you can repeat under this section, as I understand it, as the committee understands it, indefinitely. You can petition the court to fix a value, and continue to petition it and continue to add stock to the company to cover the value of a franchise that increases without a dollar of outlay by the company or any risk whatever—nothing except the natural unearned increment, as I am pleased to call it. Therefore the committee thinks that such a law should not be permitted to remain. If the Supreme Court sustains the court of appeals, of course the matter is ended; but it is a very close question, and the Supreme Court may hold that the act is valid. Then immediately the Washington Gas Company's case proceeds, as well as that of the Georgetown company. As soon as the value is fixed—I mean the cash value, including the franchise—they at once issue the stocks based on the finding of the court, and it becomes an issue based upon a judicial finding of value authorized and directed by Congress.

Mr. HEPBURN. May I ask the gentleman a question?

Mr. SIMS. Certainly.

Mr. HEPBURN. I understand the gentleman to base his argument in favor of the repeal of this statute upon the fact that in his judgment this is a very close question, and that, being a close question, therefore he proposes to take away from one of the parties whatever right he may have in it to an adjudication. Now, if it was not so close a question, if it was one in which there was no doubt at all, there would be, then, according to his argument, no argument in favor of the repeal of this statute. Is not that the position the gentleman puts himself in?

Mr. SIMS. No; Mr. Speaker, I will explain to the gentleman so I think he will understand it. Before action is taken under the act there are no vested rights, but as soon as the companies comply with the act and issue stock it becomes a vested right, and if we were absolutely sure the Supreme Court would hold the act valid, that would of itself be one of the strongest reasons why it should be repealed. In other words, the act ought never to have been passed.

Mr. HEPBURN. That may be, but as I understand it, there can be no issue of stock until the highest court in the United States declares that rightfully the stock may issue.

Mr. SIMS. No; that is not the question for the court to decide under this act.

Mr. HEPBURN. That is precisely the question, provided the act is constitutional.

Mr. SIMS. Congress provides in this act as a limitation that it shall not issue an amount of stock in value to exceed the value placed upon it by the court, but the court does not authorize the stock issued under this act. The court simply performs a ministerial legislative function, to investigate and find out what the value is. Then the law applies and the company shall not issue stock exceeding that, but it takes no authorization of the court to issue it. There is no mandate to issue it, and the company need not issue any, but if issued, then it becomes a vested right. Before it is a vested right we have a right to repeal the law.

Mr. MURDOCK. May I ask the gentleman a question? If the Supreme Court sustains the opinion of the court of appeals—

Mr. SIMS. That ends it.

Mr. MURDOCK. That ends the proposition?

Mr. SIMS. Yes.

Mr. MURDOCK. If we repeal this section—

Mr. BURLESON. That ends it.

Mr. MURDOCK. Will it redound to the good of the gas company or to the District? Is it an advantage to the District government to have this section repealed, or, on the other hand, will it do the gas company any harm?

Mr. SIMS. I will try and answer that as I see it—that is all I can do.

It may do the consumer a great deal of harm, providing the stock issue as a result of the proceedings should be so large that we can not reduce the price of gas and leave reasonable earnings to the stockholders in this new inflated or increased issue.

Therefore, the consumer, and I am presuming the commissioners represent the consumer when the commissioners, speaking in their representative capacity, ask that this bill be passed now. There is another bill here to reduce the price of gas, and if this section is repealed Congress can deal with the question of the reduction of gas unhampered by the possibilities of a stock issue that might render void or invalid any price we might fix. Some gentlemen seem to be under the impression that if this clause is repealed the company can go ahead and issue stock by some other means. They can issue no stock unless authorized by act of Congress to do so. I say, as I have said before, that the present stock issue of the Washington Gas Company does not equal even the structural value of the plant at present, but here is an act that, as construed by the court that will have to apply it, will capitalize this franchise, which is given the companies free. We should not give away the property rights of the people by way of a franchise and then allow the donee to capitalize it and demand an earning upon the gift.

But Congress has full power to authorize the increase of the stock of the gas company under such limitations as Congress may fix. It may say that in finding the value that the franchise rights and good will shall not be included, or it may fix any method, but Congress ought not, according to the judgment of the committee, have passed this bill, but the committee insists it has the right to repeal it before the rights of the companies under it have become vested.

Mr. HARDY. I desired to ask you a question, but I think you have just stated what I wanted to ask. My understanding of this position is that Congress has passed a law under which it is possible for the supreme court or higher court to hold that this company may capitalize its franchise, and before it has done so you wish to repeal that law. That is the whole thing.

Mr. SIMS. That is the whole thing in a nutshell. Now, Mr. Speaker, the object of this bill is not to reflect upon the court or findings of the court, either the supreme court or the court of appeals, or to anticipate the action of the Supreme Court of the United States. It is not interfering with the case in court, because there is only one party.

It is in the nature of an ex parte proceeding asking simply that the courts do that which will enable them to issue the stock to the extent of the value ascertained, and the court has already passed upon the Georgetown case and included the franchise, which would not amount to much if it did not go any further than that; but in the case of the Washington Gaslight Company, the franchise might be worth a million dollars, in five years' time it might be worth a million more, and in ten years' time it might be worth another million; and as long as this act stands here recapitalization can continue indefinitely, including the increased value of the franchise in each capitalization, for which nothing was paid. Now, I have no prejudice against the gas company any more than any other public-service corporation, and I may say that I have been very unsuccessful in trying to get some regulation of the street car companies here. I have no objection to the gas company having a capitalization equal to the value of the plant, excluding these elements of value that are not contributed by the stockholders directly or by withholding the dividends.

Now, I do not think the repeal of this act will prevent the gas company from getting a reasonable price for their gas. If they only had one dollar of stock they would be entitled to a just compensation for the services rendered, but the stock issue under these circumstances, as the committee looked on it, is equal to a judicial determination of the value, and then you never could reduce the price of gas below what would be a reasonable earning upon that value as evidenced by the stock issue under it. I, for one, am perfectly willing to vote for any bill to recapitalize the gas company upon a just valuation of the property; I think they are entitled to it as much as the street car companies to a vastly overissue of stock above the actual value.

But I am not here to plead the rights of either or the equity of either. Here is a law. I do not think it should ever have been passed. The law has not been executed, no rights have been fixed under it, and the committee thinks the law ought to be repealed, as it should never have been passed.

Mr. MANN. Will the gentleman yield for a couple of questions?

Mr. SIMS. Yes.

Mr. MANN. If this law be not repealed, what authority is there for these gas companies to increase their capital stock, and does the increase have to be for money paid in?

Mr. SIMS. No, sir; it does not have to be for money paid in.

Mr. WILLIAMS. He said if this act was repealed.

Mr. SIMS. I beg the gentleman's pardon. I misunderstood him. I understood the gentleman to say if we did not pass the act.

Mr. MANN. If the act be not repealed, what provision is there for the issuance of capital stock, and will the stock, if issued, ever be paid for in cash?

Mr. SIMS. If this section 5 of the act of 1896 is not repealed, and the present bill does not pass—

Mr. MANN. If the gentleman will answer the question in the form in which it is put—

Mr. SIMS. I was going to tell the gentleman what would be the effect. They could simply take up the outstanding certificates and reissue certificates equaling the value found by the court under this proceeding, whatever it might be, without one additional dollar being paid into the treasury of the company, as I understand it.

Mr. MANN. Under what authority of law is it that they could issue stock without paying in any money? There is nothing in the act that provides for the method of issuing the stock. Would they not still have to pay for the stock in cash?

Mr. SIMS. I do not think so.

Mr. FITZGERALD. There would be no restriction.

Mr. MANN. Then, if there be no restriction upon their issuing stock with this law as it stands, without paying cash, what restriction is there under the law for issuing stock without paying cash if this law is not in existence?

Mr. SIMS. There is no law authorizing the issue of one dollar of stock, except this.

Mr. MANN. There is nothing in this act that authorizes the issuance of stock.

Mr. SIMS. It fixes the value upon which they may issue stock.

Mr. FITZGERALD. Oh, no. There is no limitation upon the power to issue stock except what is contained in this section 5. If this section be repealed, then there is no limitation upon the power.

Mr. MANN. Is not there a general incorporation law in the District of any kind?

Mr. FITZGERALD. They have a special charter.

Mr. SIMS. They were chartered by act of Congress.

Mr. MANN. I know there is a general incorporation law in the District.

Mr. SIMS. If I understand the gentleman correctly, I will answer him. As I understand it, there is no law authorizing a public-service corporation to increase its stock, and it must be done by special act of Congress.

Mr. MANN. Then is there anything in their act of Congress authorizing them to issue stock?

Mr. SIMS. If this act is repealed?

Mr. MANN. Whether it is repealed or not repealed.

Mr. SIMS. No; I do not understand that there is. In fact, I understand it to be the contrary.

Mr. MANN. Then the authority to issue stock under this act is merely by implication? I would be inclined to think, unless the gentleman looked it up, that they have not relied entirely upon that. There must be some provision authorizing them to issue stock. Now, what this House does not want to do is to repeal an act which has some limitation upon the issuance of stock and thereby authorizing these companies to issue stock ad libitum.

Mr. SIMS. They can not issue a dollar, if this act is repealed, under the law of the District of Columbia, as I understand it; that is, not without special authority of Congress.

Mr. MANN. They can issue stock and add additions to their plant, can they not?

Mr. SIMS. Not under the law as it now is.

Mr. MANN. I think the gentleman is mistaken.

Mr. SIMS. They can not issue stock or bonds. That is my understanding. That is given to me by the District authorities here.

Mr. MANN. No doubt the House will pass the bill. The gentlemen on the committee have recommended it, and the people want it, but I wish the gentleman himself would look that matter up before this becomes a law, because we would feel exceedingly cheap here if we found in the end that we had repealed the only limitation there was, and that these companies could issue such stock as they pleased, thereby forbidding us in the future to reduce the price of gas.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time and passed.

On motion of Mr. CAMPBELL, a motion to reconsider the vote by which the bill was passed was laid on the table.

Mr. CAMPBELL. Mr. Speaker, I ask unanimous consent to extend in the RECORD my remarks on this bill and on the bucket-shop bill.

There was no objection.

ADMISSION TO THE GOVERNMENT HOSPITAL FOR THE INSANE.

Mr. SMITH of Michigan. I call up the bill (H. R. 12898) to change the proceedings for admission to the Government Hospital for the Insane, and for other purposes, so as to yield to the gentleman from New York.

Mr. OLCOTT. Mr. Speaker, I will say in regard to this bill that at the request of the gentleman from Florida [Mr. CLARK] I will ask that this bill go over until another District day. Therefore, I ask that it be passed without prejudice.

The SPEAKER pro tempore. Without objection, the bill will be passed without prejudice.

WASHINGTON, ALEXANDRIA AND MOUNT VERNON RAILROAD COMPANY.

Mr. SMITH of Michigan. I now call up the bill H. R. 15448. The Clerk read as follows:

A bill (H. R. 15448) to amend section 12 of an act entitled "An act to provide for eliminating certain grade crossings on the line of the Baltimore and Potomac Railway Company in the city of Washington, D. C., and requiring said company to depress and elevate its tracks, and to enable it to relocate parts of its railroad therein, and for other purposes," approved February 12, 1901,

With an amendment to strike out all after the enacting clause and insert an amendment, so as to read:

"Be it enacted, etc., That section 12 of the 'Act to provide for eliminating certain grade crossings on the line of the Baltimore and Potomac Railway Company in the city of Washington, D. C., and requiring said company to depress and elevate its tracks, and to enable it to relocate parts of its railroad therein, and for other purposes,' approved February 12, 1901, providing among other things that a standard underground electric system of street car propulsion shall be installed by the Washington, Alexandria and Mount Vernon Railway Company on the part highway leading to the new highway bridge, and that no dynamo furnishing power to said portion of the road shall be in any manner connected with the ground, is hereby amended by inserting after the words 'shall be paid by said company' the words 'Provided, however, That said company, for the purpose of making the necessary change from underground to overhead wire in the conduct and operation of its cars at the north end of the new highway bridge, shall be permitted to use an approved overhead-wire system on the approach to said bridge for a distance of not more than 350 feet from the north-erly or Washington end of the bridge; the location, construction, and maintenance of all parts of the overhead and underground systems, of the necessary plow pits, and of the asphalt or other paving between the tracks and the 2 feet outside thereof on the bridge and both approaches to be subject at all times to the supervision, instructions, and approval of the Secretary of War; and all instructions and requirements of the Secretary of War shall be fully complied with by the said company within the time specified, at its own expense and without cost to the United States.'"

Mr. SMITH of Michigan. I yield to the gentleman from Pennsylvania [Mr. MOORE] if anyone desires to ask any questions concerning the bill.

Mr. MOORE of Pennsylvania. Mr. Speaker, this is simply an engineering proposition. In the act intended to eliminate grade crossings passed in 1901, all trolley wires were directed to be put underground. In the approaches to the bridge over the Potomac it was found impossible to do this from an engineering standpoint. It was believed it would endanger the abutments of the bridge and affect its strength. It has been necessary in order that the cars of the Washington, Alexandria and Mount Vernon line might pass over the bridge to maintain the overhead wires for a distance of about 270 feet from the north side of the bridge, in the District of Columbia. The whole question comes under the jurisdiction of the War Department, which in compliance with the act of 1901, has ordered that the wires now in existence be placed underground.

The War Department is entirely satisfied to let them stand as they are, and the District of Columbia engineer commissioner suggests that this is the best thing that can be done. We are asked, therefore, to legalize the wires as they stand. Authority is asked for 350 feet of extension north of the bridge. There seems to be no particular objection to the bill. It is simply a question of legalizing the wires and poles already in existence and absolutely necessary for the proper transit of the cars.

Mr. UNDERWOOD. I would like to ask the gentleman from Pennsylvania to explain the engineering difficulties that prevent the underground wire. Is that a real difficulty or an imaginary one?

Mr. MOORE of Pennsylvania. It would seem to be very largely a question of expense, as well as one affecting the foundations of the bridge.

Mr. UNDERWOOD. How can the wire going under the bridge affect the foundation of the bridge?

Mr. MOORE of Pennsylvania. It would run under the piers and abutments. If you will allow me to quote from the report, something taken from the statement of the Engineer Commissioner of the District of Columbia, I think it will explain the situation.

Mr. UNDERWOOD. I would like to hear it.

Mr. MOORE of Pennsylvania. "As the Engineer Commissioner of the District of Columbia pointed out to the committee, the plow pits are now out of the way of vehicles and pedestrian traffic, where they harm nobody, and are as near to the bridge as they can be placed and continue to remain out of the way of traffic, whereas if they were put upon the bridge or its abutment they would be a dangerous nuisance."

Mr. UNDERWOOD. Wherein can they be more dangerous than where the lines run down the streets of Washington?

Mr. MOORE of Pennsylvania. I think if you were to examine the line, as I did this morning, you would find that perhaps the plow pits were placed in the very best position.

Mr. UNDERWOOD. As I understand, the plow pit is the groove connecting the car with the electricity?

Mr. MOORE of Pennsylvania. Yes.

Mr. UNDERWOOD. How can it be more dangerous to have that on the approaches to the bridge than it is down in the middle of Pennsylvania avenue?

Mr. MOORE of Pennsylvania. The engineers seem to think it would be.

Mr. UNDERWOOD. If it really would be, I believe the bill ought to pass; but if it is merely a matter of saving some cost, some expense to this company, when we have adopted a rule that in building these railroads in Washington we should have no overhead wires, I do not see any reason why it should be set aside in the case of this bridge unless there is some real engineering problem.

Mr. MOORE of Pennsylvania. Since I am not an engineer, suppose I quote a little further from the report of the engineer.

Mr. UNDERWOOD. I would like to hear it.

Mr. MOORE of Pennsylvania—

It would be difficult, if not impossible, to locate these plow pits upon the bridge or in the abutment, and it would be decidedly objectionable to have them located upon the bridge or its abutment, as the tracks are there in the center of the passage for highway traffic, whereas on leaving the bridge in the park the tracks of the railway curve to the easterly side and are out of the way of travel.

Mr. UNDERWOOD. That does not answer my question. The plow pit is right in the center of Pennsylvania avenue today, where every vehicle goes, and it is not considered dangerous. I have not heard of any vehicle receiving any injury from having the plow pits there. If you had it in the middle of the bridge, I do not see how it would be any more dangerous than it is in the middle of Pennsylvania avenue.

Mr. MOORE of Pennsylvania. I can only say to the gentleman that the judgment of the engineer is as I have stated. The War Department has approved of this statute and the District of Columbia engineer has approved of it.

Mr. UNDERWOOD. Has the gentleman in his report the language of the War Department approving the proposition?

Mr. MOORE of Pennsylvania. I have seen a letter from the Secretary of War which holds to the view that I have just given, and which states that the War Department has no objection to the passage of this bill as amended. Certain amendments were offered to the bill, and the Secretary of War made certain suggestions, and those suggestions were adopted by the committee. It is upon the strength of the statement of the Secretary of War to the committee that this report has been framed.

Mr. UNDERWOOD. I can readily see how the War Department may have no objection. For instance, in my town we have everything in the way of street cars run by overhead trolley, and it works very successfully.

Mr. MOORE of Pennsylvania. They have that on the Virginia side, where they operate under the laws of Virginia.

Mr. UNDERWOOD. But the absence of objection on the part of the War Department does not mean that the War Department thinks it would be dangerous or impossible to put the plow pits in the middle of the bridge. The system that we have adopted in Washington is to require the plow pits to be underground, and the underground connection made, instead of an overhead connection with the trolley, in order that the city may be a city beautiful; and I think it is a bad proposition, if it is merely a question of spending a little money, to make an exception to this rule. If there is a real engineering problem, of course we ought to grant the consent; but if it is merely a proposition to save this company a small amount of money and not make it put the current underground instead of overhead,

I do not think there is any reason for passing the bill; and from what the gentleman has read I can not see that he has given any engineering reasons why it should not be an underground current.

Mr. MOORE of Pennsylvania. Here is a very expensive bridge, built partly by the money of the Government and partly by that of the District of Columbia, and it was intended to add to the city beautiful here, as I understand it. To cut under the bridge and put this box or plow pit there would, in the judgment of the engineers, be an undermining of the structure of the bridge. In other words, it would affect the strength of the abutments and of the bridge.

Mr. UNDERWOOD. If the gentleman has something from the engineers which says that, we ought to know it.

Mr. MOORE of Pennsylvania. I have only that which has been read here.

Mr. UNDERWOOD. I do not see that the language which has been read to us conveys that idea. It merely conveys the proposition that the engineers of the District and the engineers for the War Department do not object. I do not see anything—

Mr. MOORE of Pennsylvania. May I ask the gentleman whether he is familiar with the location of this bridge?

Mr. UNDERWOOD. Oh, yes; I have passed over the bridge a good many times. It is a very handsome bridge, very well located, and I do not really see that the wires are in the way now; but it is merely establishing a precedent somewhere in Washington, letting them establish by law an overhead trolley, when the whole proposition has always been that we must have underground wires in this city, and I think we ought to stand on that proposition.

Mr. SMITH of Michigan. Is not the approach to the bridge much narrower than Pennsylvania avenue?

Mr. UNDERWOOD. I think it is narrower than Pennsylvania avenue.

Mr. SMITH of Michigan. That is one of the engineering difficulties that is objected to.

Mr. UNDERWOOD. It is much narrower than Pennsylvania avenue, but it is not narrower than a good many other streets on which the street cars run with an underground trolley. It is not nearly as congested as it is down on F street, and if it is not dangerous on F street, it would not be dangerous in crossing that bridge. So that I do not think the gentleman ought to press the bill on the idea that the engineers say that this is an engineering problem that has got to be met, unless some more specific facts can be obtained from the engineers to demonstrate that fact to the House.

Mr. MOORE of Pennsylvania. Suppose we leave the engineers out of it for a moment, and assume that a very large crowd is about to pass over from the Washington side to the Virginia side. Would it not appear to the gentleman that it would be very dangerous to have that plow pit right at the bridge itself rather than 270 feet distant, as it now is? Suppose a crowd was surging across the bridge and there should be a pressure at the entrance. Would it not be rather more dangerous to life and limb to have the plow pits right there at the entrance than to have them 270 feet removed?

Mr. UNDERWOOD. I can not understand why it should be more dangerous, because we have them in the streets of Washington. The only thing is that it will cost more money, perhaps; that it will cost this company considerable money to make the change, but we never hesitated before to spend money to put electricity underground.

Mr. MOORE of Pennsylvania. Will the gentleman suggest how the connection might be made between the underground trolley on the Washington side and the overhead trolley on the Virginia side, midway on the bridge?

Mr. UNDERWOOD. There is no necessity of making it midway on the bridge. There is no law on the Virginia statute book which will not allow you to carry it clear across the bridge.

Mr. MOORE of Pennsylvania. I am informed that the trolley is overhead on the Virginia side immediately after the crossing of the bridge, and the connection between the two would have to be made on the bridge.

Mr. UNDERWOOD. Not at all. I understand the law of the District of Columbia controls the entire river to the opposite bank. The entire bridge to the opposite bank is in the District of Columbia, and the change from the underground trolley to the overhead trolley does not have to be made until the car has crossed the bridge on the Virginia side.

Mr. MOORE of Pennsylvania. I rather think the gentleman from Alabama ought to consider the convenience of the people who are going across the bridge each day. If this change were ordered—that is to say, if the order of the War Department were carried into effect, and the overhead wires for this distance were to be removed—I think there would be a temporary cessa-

tion of travel, and it would be a great inconvenience to the people on the Virginia side who want to get in here daily. There would be a great inconvenience in reaching Washington if a continuous ride could not be had across the bridge.

Mr. UNDERWOOD. I think the gentleman is mistaken. If I recollect right, these cars are run every twenty minutes, and you do not find two cars on the bridge at the same time. They could put the underground trolley on one side of the bridge and run the cars on one side, and then put in on the other side of the bridge while the repairs were going on.

Mr. MOORE of Pennsylvania. Is it not a matter of inconvenience to travelers if they are made to get off the cars and walk 270 feet—

Mr. UNDERWOOD. They would not have to do that; they could put a switch below and run the cars on a single track instead of a double track, and put a flagman either side, and it is only a twenty minutes' schedule.

Mr. MOORE of Pennsylvania. With all due respect to the views of the gentleman from Alabama, I shall decline to discuss the engineering problem further, and call for a vote.

The SPEAKER pro tempore (Mr. CAPRON). The question is on the adoption of the committee amendment.

Mr. UNDERWOOD. Let the committee amendment be reported again.

The SPEAKER pro tempore. The Chair will state that the amendment is in the nature of a substitute and that it has already been read and is now before the House.

The question on the amendment was taken, and on a division (demanded by Mr. UNDERWOOD) there were 34 ayes and 21 noes. So the amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended.

FIXING THE PRICE OF GAS IN THE DISTRICT OF COLUMBIA.

Mr. SMITH of Michigan. Mr. Speaker, I call up H. R. 18345, to fix the price of gas in the District of Columbia.

The Clerk read the bill, as follows:

Be it enacted, etc., That on and after January 1, 1909, no person, firm, copartnership, association, or corporation engaged in the manufacture and sale of fuel or illuminating gas in the District of Columbia shall sell or otherwise dispose of the same to any person, firm, copartnership, association, or corporation in the District of Columbia for a price exceeding 90 cents per 1,000 cubic feet.

With the following amendments recommended by the committee:

"Strike out of page 1, line 3, the word 'May' and insert in lieu thereof the word 'January'."

"Strike out of page 1, line 3, the word 'eight' and insert in lieu thereof the word 'nine'."

"Strike out of page 1, line 9, the word 'eighty' and insert in lieu thereof the word 'ninety'."

"Add in page 1, at the end of line 9, the words, 'such gas to be of the standard and quality required at the present time.'"

Mr. SMITH of Michigan. Mr. Speaker, there is a short letter from the Commissioners of the District in connection with the report that I would like to have the Clerk read.

The Clerk read as follows:

OFFICE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,

Washington, March 6, 1908.

DEAR SIR: The Commissioners have the honor to state in response to your reference to them of H. R. 18345, entitled "A bill to fix the price of gas in the District of Columbia," that they are in favor of a reduction in the price of gas to whatever figure will yield a reasonable profit to the gaslight companies, as they have heretofore recommended to Congress. But, as they have also stated to Congress, they have not the authority or the means at present to determine what that price should be. They have recommended in their annual report that they be given the necessary authority and means to properly supervise the operations of all the public utility corporations in the District of Columbia, including the gaslight companies. If Congress will give the Commissioners the additional authority and means needed they will be able, with the advice of disinterested experts employed by them for the purpose of investigation, to arrive at the amount of reduction that ought to be made in the price of gas.

Very respectfully,

HENRY B. F. MACFARLAND,

President Board of Commissioners District of Columbia.

Hon. S. W. SMITH,

Chairman Committee on the District of Columbia,
House of Representatives.

Mr. SMITH of Michigan. Mr. Speaker, like the Commissioners of the District, I, too, have been of the opinion for some time that perhaps the price of gas could be reduced in the District.

Mr. GAINES of Tennessee. Will the gentleman give the committee the price of gas in the District for the last ten or fifteen years, and how it is that it has been so high?

Mr. SMITH of Michigan. The price of gas net in Washington is \$1 per thousand.

Mr. GAINES of Tennessee. We have had a great deal of legislation in the last ten years upon this subject. What was it before?

Mr. SMITH of Michigan. Previous to that time I think that gas was sold at \$1.25 per thousand in Washington.

Mr. GAINES of Tennessee. Were not we paying more than that?

Mr. SMITH of Michigan. Yes; previous to that time we were. There have been one or two different reductions. I think the last reduction was eight or nine years ago; I don't remember the exact date.

Mr. GAINES of Tennessee. Has the gentleman the exact figures there?

Mr. SMITH of Michigan. I do not think I have.

Mr. GAINES of Tennessee. I think it would be very interesting reading, because I know the gas company has used some sort of influence for years here, persistently claiming and showing that to reduce the price of gas would be a confiscation, and I want it to go into the RECORD if I can get it there, as going to show that they were wrong and that Congress was right.

I remember one day here when we refused to pass a bill as reported by the committee and instructed the committee to go out and bring in a certain bill reducing the price of gas a great many cents. The distinguished gentleman from Iowa [Mr. HEPBURN], as I remember it, was the able gentleman who urged the reduction of the price of gas. I think he will remember the occasion. I do not think he ever got the bill back, either, that we directed the committee to bring back. I would like to know if you can give us the charges for gas for as many years as we can get them.

Mr. SMITH of Michigan. I will be glad to put into the RECORD that information. I have no doubt that it can be obtained. I have not the information at hand.

My remarks upon H. R. 18345 have been withheld until this time that I might obtain the information as requested by the gentleman from Tennessee [Mr. GAINES], and in response to a telephone message this morning the secretary of the Washington Gaslight Company has kindly sent me the following information, which, at the request of the gentleman from Tennessee [Mr. GAINES], I will insert in the RECORD as a part of my remarks:

WASHINGTON GASLIGHT COMPANY,
Washington, D. C., December 16, 1908.

Hon. SAMUEL W. SMITH,
Chairman Committee on District of Columbia,
House of Representatives, City.

DEAR SIR: According to promise, I herewith transmit schedule of reductions in price of gas in this city from January 1, 1867, to July 1, 1901, and there has been no change since July 1, 1901, to the date of this communication.

Very respectfully, W. B. ORME, Secretary.

Price of gas and reductions in the same at Washington, D. C.

Date.	By the company.	By act of Congress.
Jan. 1, 1867	\$4-7½ per cent=\$3.70	
July 1, 1867	\$4-12½ per cent=\$3.50	
July 1, 1868	\$4-15 per cent=\$3.40	
Nov. 1, 1869		\$4-18½ per cent=\$3.25.
Aug. 1, 1872	\$3.75-20 per cent=\$3.	
July 1, 1874		To United States and District of Columbia, \$2.50.
Do.		To other consumers, \$2.75 less 25 cents, \$2.50 net; street lamps, 2,200 hours, 6 feet per hour, \$40 per year.
May 1, 1876	\$2.50-25 cents=\$2.25; street lamps \$36.70.	
July 1, 1878		Street lamps reduced to \$32.
Jan. 1, 1880	\$2.25-25 cents=\$2; street lamps reduced to \$28.70.	
July 1, 1881	Street lamps to \$25.	
Jan. 1, 1882	\$2-25 cents=\$1.75	
July 1, 1883	\$1.75-25 cents=\$1.50; street lamps to \$22.	
July 1, 1886		Street lamps reduced to \$20.
Oct. 1, 1886	\$1.50-25 cents=\$1.25	
July 1, 1891		Street lamps increased to \$21.50 and 3,000 hours, instead of 2,600 hours as heretofore.
Nov. 1, 1893	\$1.25 net.	Same as above.
July 1, 1896		Street lamps \$20; consumers, private, \$1.25-15 cents=\$1.10 net; consumers, United States and District of Columbia, \$1 net.
July 1, 1901		Consumers, \$1.25-25 cents=\$1.

Mr. GAINES of Tennessee. I wish the gentleman would put it into the RECORD, so that we can have some vindication of the judgment of this House, that the gas rates in this District were outrageous, that they were oppressive, that they should have been reduced, and they could have been reduced without confiscating the gas company's property, and let it go into the RECORD.

Mr. SMITH of Michigan. Now, Mr. Speaker, I was about to say that the committee, in the investigation of this matter, heard two distinguished experts. One was Edward W. Bemis, of Cleveland, Ohio, and he was heard upon both the subject of the

repeal of the fifth section, which has already passed the House, as well as upon the question of the reduction of the price of gas. As to the first proposition, that bill having passed, I will not spend any time respecting that portion of his statement, although I would like to insert, as a part of my remarks, the statements of Mr. Bemis and Mr. Humphreys, given before the committee.

The SPEAKER pro tempore. Without objection, permission will be given.

There was no objection.

Mr. SMITH of Michigan. Upon the question of the price of gas Mr. Bemis gave it as his judgment to the committee that gas could be manufactured in the city of Washington for 58.9 cents, and I think in another portion of his testimony the outside figure claimed was 62 cents. Mr. Bemis also gave it as his judgment that the maximum price of gas in the city of Washington should be 85 cents. But, Mr. Speaker, no one can read the statements of Mr. Bemis and Mr. Humphreys without coming to the conclusion that these gentlemen were at that time in a large measure unprepared to give the committee their best judgment for the reason they had not had sufficient time to visit the plant and to make a satisfactory examination.

The committee heard Mr. Bemis for an hour and twenty minutes. Subsequent to that time the committee also heard another distinguished expert, Mr. Alexander C. Humphreys, for an hour and thirty minutes, and upon some questions these gentlemen differed, questions that are certainly very material in determining what is a fair price for gas. I shall not take the time now to go into the details, but I desire to say upon one important question, which is very material to the people of the District, particular stress was laid, and that is this: Mr. Humphreys insists that we do not need in this city gas at 22 candlepower, but that we could get along with gas at 17 candlepower, and both he and Mr. Bemis agreed upon this, that the difference in price would be 5 cents per thousand. It seems to me that this is a very material matter in the final determination of this subject, for if it shall be found that a fair price for gas at 22 candlepower is 85 cents, 90 cents, 95 cents, or a dollar, it is of the utmost importance that we make sufficient further inquiry to know whether or not in the city of Washington we shall have gas at 22 or 17 candlepower. Both the experts agree that the reduction from 22 to 17 candlepower will save the consumer 5 cents per thousand. There are but three or four cities in the Union that have 22 candlepower gas.

It is suggested to me that it is twenty-three. As I remember the law, it is twenty-two. Now, Mr. Speaker, Mr. Humphreys in his testimony frankly admitted that he had not had an opportunity to examine the gas plant in late years, although his testimony does disclose that he had been sent here on different occasions during the last eight or ten years to examine the same, and as I remember the testimony of Mr. Bemis, he was never called here, but both of these gentlemen are agreed on the fact that ample time should be taken and opportunity be given for the examination of these matters before a final conclusion is reached. Mr. Humphreys told the committee that gas in the city of Washington at \$1 per thousand was right. Now, after the committee listened to Mr. Bemis for an hour and twenty minutes and to Mr. Humphreys for one hour and thirty minutes, making less than three hours altogether that the committee listened to these two distinguished experts, the committee struck, so to speak, a middle price between what Mr. Humphreys thought the price of gas ought to be in the city of Washington and what Mr. Bemis thought it ought to be and reported this bill to the House at 90 cents.

Mr. DRISCOLL. Will the gentleman yield for a question?

Mr. SMITH of Michigan. Certainly.

Mr. DRISCOLL. I would like to have the gentleman state in what manner either of these two gentlemen arrived at their conclusion or in what manner the committee arrived at the conclusion which they reached.

Mr. SMITH of Michigan. I have just stated.

Mr. DRISCOLL. For instance, what rate of interest did they allow on the stock in coming to this conclusion of 90 cents?

Mr. SMITH of Michigan. As I remember the testimony of these gentlemen, 6 per cent.

Mr. DRISCOLL. Both agreed on 6 per cent on the stock?

Mr. SMITH of Michigan. There was no material dispute on that question, as I now remember it.

Mr. DRISCOLL. I suppose the franchise was not considered in that matter at all, was it?

Mr. SMITH of Michigan. Mr. Bemis, as I remember the testimony, took one view of that, and Mr. Humphreys, who has been connected with gas companies for many years and is himself a stockholder, and a large stockholder, in gas companies here, as well as abroad, entertained an entirely different view

from Mr. Bemis upon that question. I understand—and I think it is the general understanding—that the Supreme Court of the United States, if it did not hand the opinion down today, will likely hand down an opinion on almost any Monday bearing upon that question.

Mr. CAMPBELL. That is in the New York case.

Mr. SMITH of Michigan. That is in the New York case. I understand that question is involved with several other important questions.

Mr. DRISCOLL. Does not the gentleman think he ought to reserve the bill until that opinion is handed down?

Mr. SMITH of Michigan. No; my regret is that we did not have more time, better opportunity, and better facilities to make the investigation. In other words, had time in proportion to what we took last session to investigate the proposition of getting the tracks to the Union Station and the cross-town extension, time we took to investigate the prohibition question, if you please. Those were questions which seemed paramount at the time, especially the railroad question, and we spent a great deal of time upon them.

Mr. DRISCOLL. Did the committee consider this case in that manner?

Mr. SMITH of Michigan. I have stated frankly, and I think the other members of the committee will bear me out, that after listening to the two experts, one for an hour and twenty minutes and the other for an hour and thirty minutes, less than three hours, the committee recommended the bill as I have said.

Mr. HEPBURN. May I ask the gentleman a question?

Mr. SMITH of Michigan. Certainly.

Mr. HEPBURN. I understood you to say that you had two experts before the committee?

Mr. SMITH of Michigan. Yes, sir.

Mr. HEPBURN. And that the committee refused to agree with either of them?

Mr. SMITH of Michigan. That is so.

Mr. HEPBURN. And arrived at their conclusion how?

Mr. SMITH of Michigan. As I said, one of the experts fixed the price at a dollar, and the other at 85 cents, and the committee reported a bill at 90 cents.

Mr. HEPBURN. If the committee is going to be exact, it ought to have been 92½ cents, ought it not?

Mr. SMITH of Michigan. Yes; that is so.

Mr. HEPBURN. Well, now, when the committee were considering this matter what valuation did they put upon the plant?

Mr. SMITH of Michigan. That is stated in the report. Both Mr. Bemis and Mr. Humphreys in giving their testimony and fixing the price took into consideration the last report of the gas company for the last year.

Mr. HEPBURN. I understood you to say one of these experts had never seen the plant and that the other had not seen it for eight or nine years.

Mr. SMITH of Michigan. Mr. Humphreys had not seen it for some time so as to make a careful examination. He had been here on one or two former occasions and made a careful examination. I do not want to do Mr. Bemis any injustice, but as I remember the testimony he had not visited the plant; certainly not at the time when he testified.

Mr. HEPBURN. And then how did they arrive at the value of the plant?

Mr. SMITH of Michigan. It is only fair to say of either of these gentlemen that their testimony was very largely general. They had to give it in that way.

Mr. HEPBURN. Did they include the franchise or any part of it in their valuation of the plant?

Mr. SMITH of Michigan. I do not think Mr. Bemis did, and I do not recall that Mr. Humphreys did.

The gentleman from New York [Mr. DRISCOLL] asked me a question a moment ago with reference to the report of the committee. If it were not for the prejudice which seems to be prevailing in some quarters, it would seem to me that it would have been well for the committee even now to further consider and take more testimony, but the committee have reported the bill, it is on the Calendar, and I assume that when it goes to the other end of the Capitol they certainly will be able to spend more time and make a more careful and thorough investigation than the House Committee on the District of Columbia did in the short time that we had in which to investigate the matter.

Mr. DRISCOLL. And they will probably hold it up until the decision comes down.

Mr. SMITH of Michigan. Well, I do not know. I now yield to the gentleman from Wisconsin [Mr. STAFFORD].

Mr. STAFFORD. I have listened very attentively to the explanation that has just been made by the chairman of the com-

mittee, but after following him closely I must say I have come to the conclusion, as I believe most of the Members must have come to the conclusion, that the price that has been fixed upon in this bill is merely a guess. If anything justifies the appointment of a public-utility commission to investigate this and kindred subjects, it is the statement that has just been made by the chairman. He states that it has been utterly impossible for the committee, on account of lack of time, to examine into it as it should have been examined into. And that committee might have spent a hundredfold the length of time that it has taken, and they, not possessing expert knowledge to go into the technical details, would have been enveloped in a maze of difficulties that would have prevented them from arriving at an intelligent decision, just as they have after this bare inspection of three hours of a very important question.

We do not know from the statement and investigation made whether we are doing justice to the capital invested or justice to the consumer. But the time is coming, I wish to say, when a public-service commission will have to be created in order to pass upon the returns to these public-service corporations and the price they may charge for services to the public, such as street railway fares and the price of gas and the price of electric light; for Congress has not the time in which to properly investigate those questions. We give too much time as it is to the consideration of these District measures, and it will be necessary in the future to have a public-service commission that will pass intelligently upon the questions involved so as to report to Congress what should be the reasonable rate to the consumer of these public-service corporations. Not upon the investigation that has been made in this case, but upon the general reduction in the price of gas in other municipalities, will I support the reduction in the price of gas to 90 cents, or even lower.

Mr. GAINES of Tennessee. I would like to ask the gentleman from Michigan [Mr. SMITH] a question.

The SPEAKER pro tempore. Does the gentleman yield for a question?

Mr. SMITH of Michigan. I do.

Mr. GAINES of Tennessee. A few days ago we had up the legislative, executive, and judicial appropriation bill, and it developed in the course of the debate on the several items that we are paying \$471,000 a year rent for offices for the government service. Now, does the gentleman know whether that rental is reasonable or not; and if it is unreasonable, what would be reasonable? And what is the judgment of the gentleman as to what Congress should do—continue to rent offices or proceed with some policy as to establishing a proper number and quality of buildings?

Mr. SMITH of Michigan. My judgment has been for some time that the Government could well afford, when it can borrow money for 2 per cent, to erect its own buildings and not pay rent.

Mr. GAINES of Tennessee. I am going to ask the gentleman another question. Is it the duty of your committee to look after that sort of thing?

Mr. SMITH of Michigan. No, sir. I should think it would be the duty of the Committee on Appropriations. They, as I am informed, have taken that matter up, and I think a member of that committee visited—at least, if they did not, some one in the last year or two visited—these various buildings that are being rented by the Government and determined as to whether or not there was a fair rental being paid. As I remember it, the report was, in substance, that the Government was paying a fair rental for the buildings rented.

Mr. GAINES of Tennessee. Well, the chairman of the Committee on Appropriations stated the other day that it was not pertinent to bring in relief in the bill then pending. It would seem the Committee on Appropriations has not jurisdiction of it, and I would like to locate the committee of Congress that has jurisdiction.

Mr. JOHNSON of South Carolina. The Committee on Public Buildings and Grounds.

Mr. GAINES of Tennessee. I think it is a reform that ought to be brought about.

Mr. BONYNGE. Will the gentleman allow me to ask him a question?

Mr. SMITH of Michigan. Certainly.

Mr. BONYNGE. What is the price charged by the gas company in the District of Columbia now?

Mr. SMITH of Michigan. A dollar net.

Mr. BONYNGE. Does the statute fix the price at a dollar?

Mr. SMITH of Michigan. A dollar and twenty-five cents—a dollar net.

Mr. BONYNGE. Can the gentleman tell what the price fixed by law is?

Mr. SMITH of Michigan. One dollar and twenty-five cents—a dollar net.

Mr. BONYNGE. Is that the way the law reads—that the law permits the gas company to charge a dollar and twenty-five cents or a dollar?

Mr. SMITH of Michigan. As I understand, \$1.25—\$1 net.

Mr. BONYNGE. The statute permits them to charge a dollar and twenty-five cents?

Mr. SMITH of Michigan. As I understand it.

Mr. WILLIAMS. And for cash a discount of 10 per cent.

Mr. BONYNGE. Is the standard of quality of the gas specified?

Mr. SMITH of Michigan. Yes, sir; 22 candlepower.

Mr. BONYNGE. When was the law passed fixing the price at \$1.25?

Mr. CAMPBELL. Eighteen hundred and ninety-six.

Mr. SMITH of Michigan. Before I came to Congress.

Mr. MANN. Will the gentleman yield to me for a question?

Mr. SMITH of Michigan. Yes, sir.

Mr. MANN. Under the existing law the gas company makes out a bill at the rate of \$1.25, or a dollar if the bill be paid before a specified time. Now, the proposition is to do away with that system entirely. Is it not desirable that there be some premium given to those who pay their gas bills promptly?

Mr. SMITH of Michigan. I think so.

Mr. MANN. But you do away with that entirely.

Mr. SMITH of Michigan. Yes, sir.

Mr. MANN. Upon what theory do you change that method, which has been adopted by every municipality in the country?

Mr. SMITH of Michigan. There is no theory about it. I have stated the case as correctly as I could, and I think every member of the committee agrees with me. After listening to one gentleman for an hour and twenty minutes and to another gentleman for an hour and thirty minutes, some one made a motion that the price of gas be 90 cents.

Mr. MANN. That is not the idea—that the net price of gas be 90 cents. Whereupon, without any consideration, without a vote, without any further consideration, it was passed.

Mr. SMITH of Michigan. Without any further consideration. I think I have stated that in the statement I made as to how this bill was reported to the House.

Mr. MANN. Well, the gentleman himself, I know, has given consideration to the subject. Therefore may I appeal from his action as chairman of the committee to his individual opinion? Ought there not in any bill fixing the price of gas to be some arrangement by which there can be given a preference to those who pay their bills promptly?

Mr. SMITH of Michigan. Yes, sir; I think that is a fair proposition.

Mr. MANN. Now, another thing I would like to ask the gentleman. This bill not only fixes the price of gas for those companies which have been created by act of Congress, but undertakes to say at what price one individual shall sell gas to another individual, without regard to any act of Congress. Have we the constitutional power to do that?

Mr. SMITH of Michigan. That is a very nice question.

Mr. MANN. Can we say at what price butter shall sell; can we say at what price clothes shall sell; can we say at what price gas shall sell, where it is not in a sense sold by a public-utility corporation or by anybody who derives their right from Congress?

Mr. SMITH of Michigan. I do not know whether the bill will bear the interpretation the gentleman puts upon it in that respect.

Mr. MANN. Well, it says "no person."

Mr. MACON. Can not the gentleman make any distinction between a case of public utility?

Mr. MANN. I make the distinction; but that is the point I am trying to make the distinction in—whether this bill is constitutional or whether it will go the same way as the last bill went fixing the price of gas at a dollar; then after a delay of years it was found that it was unconstitutional.

Mr. MACON. We have power under the Constitution to fix the sale of any public utility.

Mr. MANN. We have the power to control a public utility, but this bill says—

Any person, firm, copartnership—

Mr. MACON. Oh, yes; "person."

Mr. MANN (continuing)—

association, or corporation engaged in the manufacture or sale of fuel, illuminating gas in the District of Columbia, and so on, shall sell or otherwise dispose of the same at a price exceeding 90 cents per thousand.

Now, I very much doubt the power of Congress, if I establish a plant down here without asking anything of Congress—whether I shall sell gas to my next-door neighbor or some one in the same building—to say at what price I shall sell it, as long as it is in no way a public-utility matter, deriving no authority from an act of Congress.

Mr. SIMS. Mr. Speaker, there has been great agitation here for a long time in the public press, or part of it, for cheaper gas and better service. I do not remember how many bills have been introduced, but I must insist that the committee did try to have hearings and have the matter investigated as far as it was possible for a committee to do so. Several times when we fixed days for hearings on one or the other of these bills (we heard them together because they were related) one of the gentlemen who was to appear before us in behalf of the gas company was ill, and we adjourned the hearings several times in order to have that gentleman before us to give his views as to the Washington and Georgetown gas companies but his illness continued, and it was impossible to hear from the gas company or to get facts as to the company given by a person connected with it and familiar with it. Finally Mr. Bemis was brought here, as I understand, upon the employment of a Washington newspaper, and qualified as a gentleman having knowledge of such subjects.

I may not state exactly what he said, but I think I give the substance. As to this particular company, he had made no investigation and knew nothing about it except what he gathered from the reports of the Washington and Georgetown gas companies made to Congress. From those reports he made a statement to the committee, saying that without an investigation of this plant it was impossible for him to be exact. Then finally came before us Mr. Humphreys, I believe, of Buffalo, N. Y., who qualified as a gas expert, and I believe he stated that he appeared at the request of the Washington Gas Company. He made his statement not from an examination of the plant, but from the reports of the gas company to Congress. I want to read to you what Mr. Bemis said about this matter relating to the price of gas. Remember that both these gentlemen gave opinions as to the effect of the capitalization clause of the act of 1896, but I only want to read what they said, or a portion of what they said, bearing as pointedly as possible upon this question. Mr. Bemis said:

Now, I want to say a word about the question of the price for gas, assuming for the moment that you have desired to consider that when this other matter is out of the way. Any full consideration of either the price of gas or proper capitalization can only come after a very considerable study—a study by expert engineers, a study by expert accountants. In any case which I have ever been connected with there has been a large amount of time necessary for such investigations. Even the smaller cities of 50,000 population have found it necessary to go into the matter quite exhaustively. The company will do that, and the public must do it in order to present its side of the case, and the court should have all of that information before it. It would certainly be impossible for me to go into a full consideration of the proper price in Washington with the very small amount of available data at present. All I shall attempt to do will be merely to call your attention to two or three things, which I think no one will controvert.

The CHAIRMAN. What course do you think we ought to pursue in order to get at a fair price for gas in the city of Washington? I wish you would indicate just what you think we ought to do.

Mr. BEMIS. I think you ought to repeal this law, and have a thorough investigation of the books of the company running back several years, going fully to every account as to what it costs them, find out just how much it has earned out of their dollars and put in the plant every year, and just what it has cost them before they did that. Also get some idea of the average expense as compared with last year, and whether last year was normal or abnormal.

The CHAIRMAN. You do not think we can get at the price to fix by spending an hour in this way, with all due respect to you?

Mr. BEMIS. No; and I do not come—

Mr. NYE. Your conclusion ought to be worth something to us, however.

Mr. BEMIS. Of course you can do this: You can pass an act making a reduction, assuming that the courts will not hold it to be confiscatory, and that the courts will declare it confiscatory if it does reduce the price too low. You can pass an arbitrary act saying that you think that the circumstances justify 80-cent gas, or whatever you fix, and leave it to the courts to go into the investigation. Undoubtedly some time or other there will have to be an investigation. Make it 75 cents if you wish; but I think it would be better if you can have this investigation, and if you can do that I think you can pass an act making a comparative reduction, but not going to the extreme limits, and then leave it to the courts for further investigation.

Now, that is the testimony of the witness who appeared on behalf of the consumers, or on the side of the reduction of the price of gas. He concludes from an investigation of the reports of the gas company that the price of gas can be reduced in the city of Washington. I asked him this question:

Mr. SIMS. Considering the gas that is made here, 23-candlepower, and taking into consideration such facts as you have been able to gather from your limited investigation, what do you think the maximum reasonable price for gas to private individuals in this city should be?

Mr. BEMIS. It should run somewhere between 75 and 85 cents. It might be as low as 75 cents, and it might be as high as 85 cents. But

I do not like to take a very decided stand without having an opportunity to go into it further.

Mr. SIMS. It would be more of an estimate than a scientific conclusion?

Mr. BEMIS. Yes.

Now, Mr. Humphreys, who appeared in behalf of the gas company, and who beyond any question qualified as an expert, stated in substance, from the reports of the Washington Gas Company, taking into consideration the high candlepower required, the price of coal and materials, and all expenses as shown by the report, that a dollar a thousand for gas in this District was not unreasonable.

With nothing else before us and with no opportunity of having anybody else before us, for there is no appropriation to authorize us to employ experts to make a physical examination of the properties and every element entering into the cost of making gas in Washington City, we did the best we could. I am not here to urge that it is absolutely correct, because the experts themselves base their conclusions on the report of the gas company and nothing else except their general knowledge.

I thought it was more important, and think so to-day, to pass the bill repealing the capitalization clause of the act of 1896 than it was to pass this bill, because this bill at 90 cents is a compromise between 80 cents and \$1, the amounts named by these respective witnesses, and is not the result of specific detailed information. Further, both of these experts agree that each gas plant was, so to speak, an individuality; that you could not well classify them, and to have a proper price, just to the consumer and just to the producer of gas, the gas plant itself should have a careful and critical examination by experts qualified to pass upon it.

Now, there was great demand for action by the committee for the reduction of the price of gas, and the committee have done all that it could with the limited means at its disposal, and as a result has brought in this bill. I think that the gentleman from Illinois [Mr. MANN] is correct in his criticism.

The bill ought to be amended to that extent, at least, of providing a price and a discount similar to existing law, as I believe is done with gas companies everywhere; but this amendment can be made here or at the other end of the Capitol. This is simply in the nature of a compromise price that we did not think under the evidence was too low, which is a reduction of 10 per cent on all gas furnished private individuals.

Gas may not be worth over 75 cents as made here under the law and requirements in force here, and it may be worth 85 cents or 90 or 95 cents or \$1. The experts do not agree on the same state of facts. I am not an expert, and could not know which of the experts seems to be the best sustained in his conclusions by the statements made.

Mr. MADDEN. Mr. Speaker, I regret to see the committee report a bill for 90-cent gas. I hoped that the committee would see its way to report in favor of a much lower price. The cost of gas to the consumers all over the country is being lowered continually, and I think the price provided in the bill introduced by me some time ago of 75 cents was nearer justice to the people who consume gas than the price which is sought to be fixed in the bill reported by the committee. The company having the right to manufacture and sell gas in the District of Columbia has a capitalization of \$2,600,000, on which, according to its report, it pays 10 per cent dividends. This company also has \$2,600,000 of interest-bearing certificates on which, I believe, 6 per cent interest is paid annually. In addition to that it has about \$593,000 in bonds on which it pays interest, and all of this stock, bonds, and certificates of indebtedness have been created out of the earnings of the company.

No very large amount of cash was ever invested in this enterprise. The company, in addition to the payment of this interest charge and these dividends, sets aside a large amount of money every year—I have not the figures in my mind—for depreciation of the plant, and also sets aside a large sum annually for the construction of new mains and the extension of the plant. A company that is able to build additional facilities to enable it to supply additional consumers out of the earnings after paying dividends at the rate of 10 per cent on the stock that is quoted in the market at 67 for a \$20 share ought to be able to sell gas at 75 cents.

Mr. SIMS. The gentleman from Illinois says 67 cents. He means it is quoted in the market at \$67 a share on a par value of \$20.

Mr. MADDEN. I supposed the shares were \$100 par value. Then the stock is three times more valuable than the face of the certificate. Well, this great value attaches to the stock because of the enormous earnings of the company, and the enormous earnings of the company are created by the fact that the company is permitted to charge for the gas exorbitant prices. The fact is that at 75 cents a thousand cubic feet the company would be able to pay handsome dividends, not only on the

money it has originally invested in the enterprise, but on the wind and the water it has seen fit to inject into the capitalization of the company.

If this stock is worth \$67 for every \$20 that the certificate says the company has invested, everybody can see that the value has been made by the privileges that have been granted by the public through the legislation granted by Congress, and I hope that the chairman of the committee having charge of the bill will be able to see his way clear to offer an amendment to the bill of the committee reducing the price proposed to be paid in the bill and making that price 75 cents instead of 90. If, on the other hand, it is determined by the committee to insist upon the figures named in the bill, I am so anxious to see some reduction in the price made to the consumer of gas in this District that I would even be willing to vote for 90 cents rather than not see any reduction made at all.

Mr. McMILLAN. Mr. Speaker, before this bill is passed upon, because of the differences in opinion and of the different issues that have been raised by men who are deeply interested in the burning of gas, a commodity to-day that furnishes light, heat, and fuel to the home of everybody, rich and poor, the matter should be well considered. There is no man here to-day on this floor who can say that the expert examination was made by men fully qualified as experts. Because of this fact I shall move that this bill be recommitted to the committee. The real issue is the cost of the production and the cost to the consumer. This city should be the mother influence that goes over the whole country and should name the price, not only in Washington, but in New York and Chicago and in every city in our Union. Let us have the best experts; let us have men worthy of being called experts to pass upon this question. Let us have this issue intelligently investigated by men who are fit to do so. I move that this bill be referred back to the committee.

Mr. SMITH of Michigan. Mr. Speaker, I desire to say that I am in hearty sympathy with the suggestion that, so far as possible, Washington in all these matters of public-service corporations should set an example to the country, but, as the gentleman from Tennessee [Mr. SIMS] said a few moments ago, this committee has no money with which to do these things, and the only way in which, in a measure, the suggestion of the gentleman from New York [Mr. McMILLAN] could be carried out would be either to authorize the Commissioners of the District, as they have repeatedly requested, to do this work, or to have a separate commission. I have no idea that this Congress will do either.

I have no hesitancy in saying that we as a committee should have made further investigation, but I do not know where or how we would have procured any expert testimony. You must remember that Mr. Bemis was brought here by one party and Mr. Humphreys by another, and that as a committee we listened to their testimony. I for one would have been glad to have spent more time, but I see nothing now to be gained by rereferring this bill to our committee. Let it go to the other end of the Capitol, and let them further investigate, if they so desire.

Mr. WILLIAMS. Mr. Speaker, I would like to ask the gentleman a few questions. This bill does reduce the price of gas in the District of Columbia?

Mr. SMITH of Michigan. Yes.

Mr. WILLIAMS. And the price of gas in the District of Columbia now is too high, is it not?

Mr. SMITH of Michigan. I want to say as I have said before that I have thought and still think that gas might be sold in Washington at less than a dollar a thousand. The gentleman a few moments ago referred to the price of gas in different cities. If there is any one thing that is disclosed in the testimony of Mr. Bemis and Mr. Humphreys in this case, it is that the only way in which you can decide is to take each city by itself. Within the last few weeks the city of Indianapolis has passed a franchise fixing the price of gas at 60 cents a thousand. In the city of Saginaw, in Michigan, Judge Gage, one of Michigan's ablest judges, recently handed down an opinion in which he declared that 90 cents a thousand for gas in that city was confiscatory. Therefore, as both of these experts said to us, the only way you can get at these matters is to take each city by itself and all the facts and circumstances connected with the subject, in order to determine what the price of gas should be in that particular city. I ask the Members of the House, to read the testimony of Mr. Bemis and Mr. Humphreys which I will insert as part of my remarks in the RECORD, and I feel sure they will certainly come to the conclusion that there ought to have been a further and more thorough investigation of this matter. The committee has made this report, and it is before the House. It becomes my duty to ask the House to accept it.

COMMITTEE ON THE DISTRICT OF COLUMBIA,
Wednesday, April 8, 1908.

Committee called to order at 10.25 a. m., Hon. SAMUEL W. SMITH in the chair.

PRICE OF GAS, WASHINGTON, D. C.

Statement of Mr. Edward W. Bemis, of Cleveland, Ohio.

The CHAIRMAN, Mr. Bemis, will you please state your name, your residence, and your profession?

Mr. BEMIS. I am superintendent of the waterworks at Cleveland, Ohio, a position that I have held since the fall of 1901. Before that I had been engaged in college teaching for ten years at the University of Chicago, and elsewhere, and that also been engaged in statistical investigations of municipal work, particularly with regard to gas. During the last few years I have been appearing before courts and commissions quite extensively in connection with gas cases, more particularly in connection with fixing the price for gas; for example, in the last three or four years I have appeared before the New York State Commission a great many times in connection with the price of gas in New York City, Syracuse, and Buffalo, and before the federal court or referee appointed by the court in the New York gas case.

I also have done work in court for Saginaw, Mich., and Cedar Rapids, Iowa, and have done work for Chicago, Boston, Montreal, Baltimore, and several other cities. My work has not been directly that of a gas engineer, for I have never been engaged directly in the gas business. Of course, my work at the waterworks has been more or less along the same lines in some ways—that is, the distribution system is somewhat similar; the methods of handling business are somewhat similar—but I have gone into it more directly in connection with the statistical and financial side. I may say also that I was one of the committee of five of the National Civic Federation that had to do with the very extensive investigation of municipal ownership in this country and in Europe. There was a larger committee, but a subcommittee was appointed of five to do the work, hire the experts, write the report, and I was one of that subcommittee, going abroad with the experts and visiting a good share of the large gas and electric light plants of Great Britain and a number in this country.

I make that statement at your request as a general introduction. I may say, by the way, that as I go on I have no objections to any interruption, and at the close I will expect a good many questions.

As I understand it, the committee has to do primarily with the repeal, or the demand for the repeal, of a certain section 5 of the gas laws of the District of Columbia with respect to the capitalization of the gas companies here and at Georgetown, but that the larger question of the proper price for gas comes up directly, that you wanted both questions more or less considered. As a matter of fact, they can not be separated. It may be from many points of view immaterial whether you have a million dollars of stock worth 300 on the market, every share representing \$300 worth of property, the share itself having a par value of \$100, or whether you have \$3,000,000 of stock worth \$100, or \$6,000,000 of stock worth \$50. It all amounts to the same thing in the total market value. Nevertheless, if the Government is going to do anything in the regulation of capitalization, it is quite common for the courts, and even for public opinion, to consider that there should be some relation between that capitalization and a proper investment on which to compute a proper profit in fixing the price of gas; and therefore the capitalization that is allowed does seem to have, whether we think it ought to or not, some influence upon the courts and public opinion with respect to the question of price. I refer to nominal capitalization as represented in so many nominal shares of stock.

Now, in approaching this subject, we do not have as many precedents as you might expect from the importance of the subject. It is to a considerable degree still untried, and you can feel, I think, that you are making history on this question. You can also feel that, although there are not so many precedents at present, public opinion is rapidly forming in certain directions, and will undoubtedly in the future look back with a good deal of criticism or approval upon what is now done, as it is so important.

Now, first, regarding capitalization, and then in regard to the price. The present law, as I understand it, in the District of Columbia aims to allow a company, whenever it comes before the proper authorities, to capitalize any earnings that have gone into the plant or into the property. There is a dispute as to what the word "plant" means, I understand, but anyway the earnings have been invested in something, and if it can be shown to the court, the theory of the law seems to contemplate that it may be capitalized.

Now that needs to be examined in the light of two theories that have largely prevailed in recent years with regard to how to treat profits that come from the consumer, for that is what it means, capital that the consumer furnishes. It is not claimed that it is capital directly furnished by the stockholders. The stockholder has furnished capital, and he gets his dividend—in this case 10 per cent—but in addition to that the consumer has furnished a large amount of capital, how much is not yet definitely stated, and the company demands the right to capitalize and earn dividends on that.

Now, there have been two theories with regard to how to treat such profit as comes from the consumer. One theory has prevailed very largely in Massachusetts ever since perhaps the creation of a commission in 1885, and it is this: The company, under this theory, should be encouraged to earn for a while more than it is permitted to divide into dividends, more than the law would consider proper, or public policy would consider proper to earn if it were to go to the stockholders. The idea is that the amount that the company shall be allowed to earn in excess of the proper amount to distribute will be put into the plant, not, however, to go to the stockholder, but to stay there until some future time when perhaps the money the stockholder furnished does not represent more than half or third of the investment, the money the consumer furnished representing the rest. There will thus come a time after a while when the plant has become very large, but with a very small nominal stock. Then the consumer will get the benefit of the capital thereafter furnished, and the company will continue to be allowed to give dividends upon what the stockholder has furnished, but not upon what the consumer has furnished; and ultimately the consumer will get a very low price for gas.

The theory has been strongly held, but it has had very grave difficulties in the courts—there has been no formal adjudication of this subject, the case coming up first in Haverhill, Mass. There the gas commission ordered a reduction in the price of gas that would leave only the usual dividend on the small amount of stock that the company had itself furnished, which was only one-fifth of the actual physical value of the property, the rest having all come from earnings. The company refused to obey the decision of the commission, and the case has not yet been adjudicated in the courts. There is some claim that the commission has hesitated about bringing the case to a head for fear it

would lose, although a member of the commission now tells me that they are expecting to bring it to a head this year and get a decision. But it has been in the courts for six or eight years, and there has been a growing feeling that it was rather dangerous for the consumer to furnish capital with the idea that he ever would get it back again or get benefit from it. It is more than likely if he does not eat his cake when he can get it, he never will. If the profits are once allowed to go into possession of the company and furnish its capital, it is probable that the consumer will never enjoy the benefits of it, but that the company will. That has become so strong a feeling of late that the Massachusetts commission has changed its attitude on the subject and is insisting upon reductions at present in the price whenever cases come before them rather than to allow the profits above a reasonable dividend to go into the plant without capitalization. And the tendency of legislation of late has been along the same line.

There has, however, been another theory which has been more largely prevalent in Europe, especially in England, which is that the consumer shall get the benefit immediately of the profits of the company; that the company shall not declare more than certain dividends, neither shall it earn more, and all beyond that shall go immediately to a reduction of the price; and if the company wants more capital it must go to the proper government board or Parliament and get that right, and furnish the capital itself in the shape of selling stock and bonds in the open market or auction to the highest bidder.

Mr. CAMPBELL. In a somewhat extensive, but a very hurried, investigation that I have been able to make within the past five or six weeks of this very important question I have found this proposition somewhere that the gas company may increase its capital stock in the proportion that it reduces the price of gas.

Mr. KELIHER. That is the law in Massachusetts to-day, is it not?

Mr. CAMPBELL. I think it is.

Mr. BEMIS. In regard to one company in Massachusetts, in Boston.

Mr. CAMPBELL. I think it was in consideration of the Boston law that I found that theory. What do you think of that theory?

Mr. BEMIS. It prevails in a few places in England, from which it was introduced into Massachusetts with respect to that one company, the Boston company. That theory has worked very well in Boston, and under it the price of gas has been voluntarily reduced by the company below the 90 cents at which the ordinance fixed it when it took effect—first to 85, and then in July of last year the company voluntarily reduced it to 80 cents, because, under the sliding scale and the reduction of 5 cents in price below 90 cents, they could increase their dividends from 7 per cent upward. The greatest objection to the law is the fact that you tie this up for a long time to come, but whatever may be the present adjudication as to a proper capitalization you must tie this up, and ought to, for quite a while in order to be a proper protection to the company and encourage it to go on in reductions; but the moment you do that you are assuming to decide to-day for quite a long time to come what your basis shall be for the reduction in price and for increase of capital. There is so great an uncertainty now as to the proper basis of capitalization of such companies, and the public sentiment is so rapidly changing on the subject, that a good many hesitate about introducing this sliding scale very rapidly just now, but are continuing the rather short relations or engagements with companies, not tying themselves to long franchises or long contracts which the sliding scale contemplates, letting the matter drift a little and trying to get every four or five years such reductions as investigations show are deserved and merited, and perhaps in time the sliding scale will be generally introduced.

Mr. CAMPBELL. Do you regard that as scientific?

Mr. BEMIS. I regard the sliding scale as an improvement over most of our efforts, but I do not feel quite ready to tie to it—not just now when public sentiment is so rapidly changing on the subject. I think it is best to leave the matter a little more open for a while yet, and I would rather see the experiment tried in Boston. I am awaiting for that with a good deal of interest, and the service is working well there. I am afraid that that basis, if taken now, would be very unpopular in a community ten or fifteen years hence.

I have spoken of two theories of the disposition of consumers' profits. One theory is to encourage the company to take it and invest it in the plant and never to capitalize it, but to give the consumer the benefit of it, if the courts will allow; and the other theory is to see that they shall turn over to the consumer all the profit in the shape of low prices beyond what is reasonable return on the capital that the stockholder has put in, and do it every year. But this law unfortunately has none of the benefits of either one of these propositions and is worse than either, for this law provides directly that the company shall keep these profits, and, having kept them, shall never return them, but shall capitalize them whenever they please to do so and can show that it has taken the profits.

So that this law directly antagonizes everything that they have attempted to do in Massachusetts, and does not attempt to do what they have tried to do in England, give the benefit to the consumer; but has the disadvantage of both schemes and leads to a tendency to absorb entirely and forever any profits that are made in the gas business. But you may reply, if it is not allowed to do this, why can't the company declare a larger dividend? It has the right to declare, perhaps, as large a dividend as it wants to, in Washington. There are, of course, places where that might not be legal, but I suppose it is here. Therefore if the company should not, as a matter of public policy, be allowed to take the profits from the consumer and put them in the plant, and avoid raising money by direct contribution of stockholder and bondholder, what would prevent its treating the consumer badly by dividing the profit as it accumulates in larger dividends? Simply the company would not dare do it, that is all; and that is one of the bases of the present scheme; it enables the community to be deceived as to the profits of the company.

You have to face here not only what is legal, but what the public opinion will tolerate. Public opinion will not tolerate a 20 per cent dividend in the gas business. If the company can show that for a long period of time it has not made any dividends—of course the company might have existed for many years and not made any money—then if it declares a 20 per cent dividend, which one would say was a reasonable recompense for not earning anything for a long time, there might not be any objection. But if the company had been earning good dividends, the community would not tolerate an open payment of large dividends; but this law allows the community to be deceived, or go to sleep on that matter. Take, for example, the reports just made to Congress by the Washington Gaslight Company, shown in House Document No. 609. It appears from this document that the company declares that it made a profit last year, which it spent for extensions and construction aside from what it put in the renewal reserve fund; that it earned and spent for extensions and construction \$130,602.24, and had a further surplus of \$139,290.82, or a total of \$269,893.26,

which is over 10 per cent on the \$2,600,000 paid-up capital stock. So that the company, in addition to declaring a 10 per cent dividend on that stock, put into the plant the surplus, a little over 10 per cent more, but the community does not realize that fact at all. Or, put it in another way: The company has \$2,600,000 of paid-up capital stock, and \$2,600,000 of dividend certificates of indebtedness, paying, I believe, 6 per cent. I do not yet see how under the law they ever had a legal right to declare those certificates of indebtedness or to issue them. It seems to me like evasion of the law. It was really a stock dividend of 100 per cent to the stockholders out of earnings that the consumer had furnished, and without going to any court under this law, simply evading the idea of having an investigation, they just simply issued these certificates, as I understand it; I may be wrong on a hasty reading of the evidence, but that is what I infer from the evidence and from what I have seen in Moody's Manual and elsewhere.

Mr. OLCOTT. I do not quite understand one thing you mentioned there. You spoke of the earnings and surplus being \$269,893 and the paid-up capital stock as \$2,600,000. That did not much more than enable them to pay their 10 per cent dividend on that; it is about \$9,000 more. Those are the figures you gave us, are they not?

Mr. BEMIS. I did not state, because I took it for granted that you were familiar with the fact—but I see that I should have stated it—that after they had paid a dividend of \$269,000.

Mr. OLCOTT. I only call your attention to this, because I want to have it correct in the hearings.

Mr. BEMIS. They had paid \$260,000 in dividends, and \$179,948 in interest, the interest consisting chiefly of the 6 per cent on the \$2,600,000 certificates. After having done all of that, they still had 10 per cent interest on the stock; I did not go back to the point as to whether the stock was ever the result of earnings from the consumer or not; but assuming for the moment that the stockholder had furnished all of that, which I remember has been disputed by many, this 6 per cent on the certificates of indebtedness and the 10 per cent that went into the surplus made 16 per cent—plus the 10 per cent actually declared, makes 26 per cent. So that assuming that the \$2,600,000 of paid-up capital stock was really paid up by the stockholders, and not by the consumers, then the earnings last year were 26 per cent, according to this report.

I am not asking you to accept any theory of mine, but to take their own returns, given to Congress on February 1, and which I am sure the company will not dispute. Or we may put it in this way: If the company is entitled to \$2,600,000 of certificates, then what they put into the surplus is equivalent to a 5 per cent addition to their dividends, making their dividends 15 per cent, and 5 per cent additional to the 6 per cent upon the certificates, or 11 per cent on that. While legally I suppose the company could declare a dividend of any amount—20, 30, or 40 per cent—the people would not long endure that if they knew it. But this law directly does allow it without the people knowing of its being done, which constitutes a very great phase, to my mind, of its viciousness. And that is not all. Not only does this law deceive the public as to the profits, and if taken advantage of by the company in the formal way allows a permanent capitalization, but it can be interpreted by the court or by the referee, who acts under the law, in a way to exert still worse results, and that is very apparent in what is before us in the case of the Georgetown Gaslight Company, and therefore I want to speak a moment upon that.

I have before me the report of the auditor in the Georgetown case. I find that he secured from the company a report of all the money that they had put into the plant since it started. He did not secure from them any statement as to the amount of renewals to take care of depreciation from year to year.

Mr. CAMPBELL. You say that is not shown in the report?

Mr. BEMIS. Not for the entire period; no. There was a little testimony as to the buildings having depreciated 5 or 10 per cent, and a few little things like that, but most of the property had no depreciation charge upon it, and there are no returns as to the amount of renewals put in the plant since it started. Perhaps that would be difficult to obtain, since the company went back to 1853; nevertheless, no effort appears to have been made running back for any length of time to have gotten it. We are left in the dark whether this investment of \$353,568.39, which is all the company claims it has ever invested in Georgetown, has had charged off any depreciation or not. It was quite common until late years for companies not to charge off depreciation, but to merely keep up a fair degree of repairs from the earnings and pay out the rest of the profits, and then, after a series of years, issue a new block of stock for further extensions.

Mr. CAMPBELL. What have you found to be the average per cent of depreciation of gas companies?

Mr. BEMIS. It varies very much with the many conditions. You have got to take into account how much they do spend, for repairs and the reserve for depreciation go together. You may spend so much on your plant from year to year in renewals that you have no depreciation at all. That is the common method with our steam railroads now, such as the Lake Shore and the Pennsylvania.

Mr. CAMPBELL. It is claimed by some that railroad property is renewed every ten years.

Mr. BEMIS. The best illustration we have of the extent to which this can be carried is the New York gas case, where the Consolidated Gas Company has kept very accurate returns for twenty years, and it has spent on the average 10.6 cents per thousand feet for repairs and renewals; and the testimony of their own witnesses, engineers and superintendents, shows that the plant at the time of the hearings in 1907 was in better shape in every way than in 1884, when they began their system of bookkeeping on that subject. In other words, the 10.6 cents had much more than kept the plant in good condition. It had improved the plant, very largely improved it. They had taken out small service pipes and put in large ones, and charged it to renewal. They had done very much in their manufacturing plant to improve it and to get a much better plant out of it, so that the question is a difficult one to answer. The amount will vary all the way from 6 or 8 cents a thousand feet for repairs or renewals up to 15 cents.

Mr. KELIHER. What are they selling gas for in New York now?

Mr. BEMIS. One dollar per thousand. The case is before the courts now.

Mr. OLCOTT. The decision of the master was in favor of the company. Mr. BEMIS. Yes. The decision of the judge indicated that about 85 cents per thousand would be a price that would be a reasonable price, but that 80 cents was not, for reasons that I will come to in a moment. In most hearings that I have attended gas companies insist on a depreciation charge of more than 2 per cent a year. But I took occasion last night to see what a 2 per cent depreciation charge written off on the declining value of every year since 1853 would amount to, and it

would take off one-third of it, leaving the Georgetown property worth only about \$225,000. I think that is extreme; I think it is too high. Very likely the plant has been pretty well kept up by renewals and out of earnings, as it should have been, so I only give that as an extreme illustration. But there should have been much more taken off, probably, than there was by the referee, since the company made very little allowance for depreciation in their testimony.

It is rather amusing that in almost every case of litigation that I have ever been in the depreciation has always begun at the time the case came up for hearing; there was never any in the past; but from the time of the hearings it must be allowed for on the price of gas in the future. It is a wonderful situation—never any depreciation in the past, and it has always begun at the time of the hearing.

Mr. CAMPBELL. As a matter of fact, is there much depreciation in the strength and durability of a gas main as the years go by?

Mr. BEMIS. No; there is very little depreciation in gas mains if there is no electrolysis, and there should be very little in Washington because of the conduit system here. The main will practically last for two hundred years. Of course it may become too small in some districts. There is no limit, however, to the durability of either water or gas mains; that is, where there is no salt or ashes to eat into it and where there is no electrolysis.

Mr. CAMPBELL. That is really the heavy expense, is it not, in these plants?

Mr. BEMIS. Yes. Of course there is always a considerable expense for depreciation for the manufacturing plant, which must be kept up-to-date, which is from 6 or 8 cents up to 15 cents, according to the size of the plant. In smaller cities, particularly where the cities are growing rapidly, and where you have a population of twenty-five or thirty thousand, as in the western towns, there you would have to allow a depreciation much greater for displacement by growth than in the larger cities of the East, which are fairly standardized.

Mr. CAMPBELL. What per cent of the cost of a gas plant in a city the size of this would be in the mains?

Mr. BEMIS. It varies a good deal, but I would not be surprised to find half of it. I find this company, after setting aside an amount for repairs, also set aside for renewals as it should have done, last year—and the total is a little over 8 cents per thousand feet of gas—8.17 cents. This includes what they do not include as depreciation, \$7,328 for material destroyed and \$4,000 for material charged off. That probably was a reasonable allowance, so far as we know at present. Anyway it is what the company considered was a reasonable allowance, and I am not in a position, without further light on the subject, from examination, to say that it is wrong. But considering in a broad way how the law is interpreted, it seems to me that in the Georgetown decision—and that illustrated what will happen in the city of Washington if the law continues—depreciation does not seem to have been charged off as much as I should think it ought to have been. In the next place, the auditor attempted to determine, not what had been invested in the plant out of the earnings of the consumer, but what the plant could be duplicated for. I have not noticed any reference to any illegality in that point of view, but it strikes me that it violates the spirit of the first sentence of the fifth section, "that neither the Washington Gaslight Company nor the Georgetown Gaslight Company shall hereafter issue any greater number of shares of stock than shall be equal to the actual cash value of said plants and necessary cost of the construction of future extensions or future enlargements of plants."

If the company is going to enlarge its plant to-day—if, for example, it discovers that there is an unpaved street about to be paved, and that it has no street main on that street, it would lay its main there probably. That is the way almost all gas mains are laid. Then it could under this law go to the court and say that it is going to cost them so much to put this main down and they want the right to capitalize that cost. The court could say, "Well and good" under this law. Suppose, however, the gas company is shrewd, and says, "No, we will not do that; we will wait; we will put the main down, but we will wait until the Government has come along and paved over the main. Then we will go to the court and say, 'If we had come to you two or three years ago we could only have asked for what it cost us, but by waiting three years we are going to ask for 60 or 75 per cent more, because we are now going to ask not only what it cost us, but what it would cost us to construct it now, because the company has put the paving down.' It would seem to me that that violates the whole letter and spirit of the act. When this act provided that they can only capitalize the future extensions on the basis of cost, it must have intended to apply it to whatever was put in, but the auditor has gone on and taken an entirely different theory—that it can apply to the past one theory and to the future another theory."

Mr. CAMPBELL. It developed in the trial of the Georgetown case, as shown by the record and the pleadings and briefs, that the court refused to hear any testimony, ex parte or otherwise, or anyone, excepting the gas company. Do you regard that as a fair sort of way at which to arrive at the value of the gas plant?

Mr. BEMIS. I have rarely known that to be pursued. It would not strike anyone as being fair.

Mr. CAMPBELL. Taking the practical side of it—you have been on both sides, in all probability, of gas questions in many States—

Mr. BEMIS. I have been connected with twenty such cases, but I have never seen a case in which both sides have not been heard.

Mr. CAMPBELL. Even experts would differ, would they not?

Mr. BEMIS. Oh, yes.

Mr. CAMPBELL. An auditor making an examination to-day would probably have some of his conclusions or findings disputed by another auditor on the same question to-morrow?

Mr. BEMIS. Yes.

Mr. OLCOTT. It is the general experience that experts never agree anyhow.

Mr. BEMIS. No; I suppose they do not.

Mr. SIMS. Has it been the rule for capital stock to be issued upon the value of the franchises, earnings, and rights where nothing has been paid in as an investment made for those rights or franchises? Is it usual to include that in capitalization?

Mr. BEMIS. I was going to refer to that a little later, but I will refer to it now. That is one of the points in which the auditor has interpreted this law even worse than it reads on its face. He has interpreted this law as allowing a capitalization of the franchise and good will, as he calls it, but the rulings of the Massachusetts and New York commissions and the custom in England have not been that way; they have always been rigidly against that. The only case in which I have known a court to sustain a capitalization of a franchise is the recent New York gas case, which I am pretty familiar with, as I have done a good deal of work on it for the city of New York, and have

carefully read Judge Hough's opinion, which I have here, and which shows very clearly two or three things: First, that he believed it to be absolutely ridiculous to capitalize a franchise, and that he was absolutely opposed to capitalizing franchises; and that the only reason he allowed it in this case was because the law had allowed it back in 1884 when it provided for the consolidation of the manufacturing corporations of New York City, and at a capitalization to include the value of their property and franchises, and because this has never been tested in the courts, and because the stock and bonds had been outstanding for over twenty years—on that basis Judge Hough said he thought that he had better pass it up to the United States Supreme Court for further action. And in a later decision, or a supplemental decision, in respect to further hearings on this very case, when he was asked to again review his position, he states: "For all I can see, the franchise of 1884 might as well have been valued on just the amount of stock issued on the face; it was enough to attempt to capitalize expected profits, but the attempt has now twenty years to justify it." It was because it had had twenty years uninterrupted legal success, and for that reason alone—as I read the original decision—he indorsed this in that particular case.

Mr. OLCOTT. That consolidation took place in 1884 and especially provided that the franchise should be valued?

Mr. BEMIS. Yes. It was contended by the State, even if that were done, the franchise had run out and had no value.

Mr. OLCOTT. Was not the law tested just immediately after 1884? There was certainly a good deal of litigation, according to my recollection, about that gas-consolidation act.

Mr. BEMIS. There is still disagreement among the lawyers—

Mr. OLCOTT. Wasn't it decided by the court of appeals of New York State?

Mr. BEMIS. I heard it discussed among the attorneys as to what the decision settled, but whether it settled that case was still a matter of discussion.

Mr. OLCOTT. I know the State had a vast amount of litigation with the gas company, and I thought they were beaten.

Mr. BEMIS. Now, further on this franchise matter, that is an argument for repealing this law before rights are secured under it. Certainly it is against public policy, it strikes me, to capitalize a gift from the community and make a community pay interest on its own gift. If it gives to the company a fair return on the capital furnished by the company, it seems to me it has gone as far as it should. Then the question comes up of capitalization of good will or established connections with the customer. Those connections with the consumer were either paid for directly by the consumer, who owns part of the service—the service at least from the sidewalk in—or they were charged to construction by the company and allowed in their schedules, or the soliciting of the business was a proper charge to the promotion, and paid for in operating expenses—that is, the canvassing, the advertising, the securing of business. Nevertheless, they have gone ahead here and capitalized those established connections with the consumers. I am trying to find the number of them in this Georgetown case, but they were somewhat over 2,000—I will assume that they were 2,000—and they value the franchise rights and good will at \$66,000, or about \$33 a connection. In other words, what they have done has been to capitalize the consumer at \$30 a head. What that means would be this: I am a consumer in Washington and pay for having the service put in. In the operating expenses I pay for all charges for promotion, having paid for the canvassing which secured me as a consumer, and having paid interest on any construction costs the company has been put to for service connected with my house. I then have to go to work and pay interest on myself for the rest of my life. That is what this means. The consumer shall not only pay the expense of getting himself connected with the gas company, but after the connection is made he shall pay interest on it the rest of his days. That is one of the most ridiculous contentions ever made by a gas company.

Again, in this Georgetown case the auditor has interpreted the law to allow him to increase the value of the land. I question if land usually is worth more for gas-making purposes, because of the growth on the lands around it, than it was when purchased, but you have got to find one horn or the other of the dilemma. If you are going to increase the value of your land with the growth of the value of the land surrounding it, you have got to take the basis on which the value of the land is fixed in the neighborhood, and that is what it would be wanted for for ordinary purposes. Gas land would not be wanted for ordinary purposes, and therefore if you are going to value the land at the increased value on the basis of what the land around is worth, you can only value the manufacturing plant on it at its scrap value. I think it is a great deal fairer to value the apparatus at its cost, or take account of the depreciation, or even the cost of duplication, and to give to the land the value paid for it. To be sure, the company could sell that land if it cared to and move to another location; I think that right would be recognized. But while it is using it for gas-making purposes I do not think it should be too ready to increase the capitalization with the assumed increase of the value of the land.

Mr. OLCOTT. Why should not the gas company have the right to get the unearned increment just as well as the individual?

Mr. BEMIS. It can when it sells it; but I do not think that during its use it is really of any more value for gas-making purposes. I doubt if its value for gas-making purposes has increased, and I think that you can not fix a value for the land excepting as you throw it in the open market and strip it of its improvements.

Mr. OLCOTT. The taxes will have increased?

Mr. BEMIS. But the taxes must have been paid by the consumer.

Mr. OLCOTT. But the tax increase shows that the land has itself increased in value, even if used for gas-making purposes?

Mr. BEMIS. That would seem to indicate it to that extent; that is true.

Now, if you are going to adopt the theory as to the value of the property in case of duplication, you ought to take into account what the prospective purchaser should give who had a franchise and no gas property, and had a right to buy this property or locate anywhere else in the city and duplicate the plant. It is more likely that he would take cheaper land.

But take the question of street mains in this Georgetown case. They have capitalized the street mains, the new paving that has gone over them since they were put down, and there seems to have been no complete investigation as to whether all the street mains were put down before the paving or not, but in most cases they are, and I shall assume for the moment that they were until further evidence is introduced. If they were, then what has happened is this: That \$54,000 capitalization has been added by the auditor on account of the paving, for that is what is accepted as the value of the paving, plus 10 per cent, making about \$60,000. That, to my mind, is equally absurd. The consumer, as the taxpayer, pays for the paving, and then he has to

pay interest on it in the form of a higher price for gas. If the auditor is consistent in that view, then this company would have the right, every time the city of Washington put down some more paving, to charge more for gas, because the company could go to the courts and say: "Here, my property is worth \$100,000 more this year than last, because the Government has put paving over my mains; therefore I am not charging enough to pay for the outstanding amount on that cost." Logically that is a direct result of that reasoning, and yet you can see how ridiculous it is when it is analyzed.

Mr. NYE. Was that allowed by the court in the Georgetown case?

Mr. BEMIS. Yes; they added \$54,000 for paving without apparently stopping to find out whether the company had paid for the paving or not. In fact, the tendency of the testimony seems to be that probably the company had not put down many mains after the paving was laid, but that the company ought to have the right to capitalize it because it would cost \$54,000 for a new company coming in now and laying mains under this pavement.

The working capital, too, was taken by the auditor at \$30,000, which does not seem to have been accompanied with sufficient investigation of how much credit the company was enjoying. For example, if the company had two months' credit on coal, oil, and other supplies without interest, then to that extent there should be a deduction made from the working capital. What the company paid no interest on it should have no right to charge the consumer. But there does not seem to have been any recognition of that fact.

Now, I have taken up these matters merely to indicate how many defects there are in the present law, which is bad enough on its face, and it is still capable of still worse interpretation than has been put upon it in this decision. And therefore it strikes me that the first thing necessary is to repeal the law before further valuations are attempted under it. The law may be constitutional—I understand that point is being tested—but it certainly is against public policy, as I look at it.

Now, I want to say a word about the question of the price for gas, assuming for the moment that you have desired to consider that when this other matter is out of the way. Any full consideration of either the price of gas or proper capitalization can only come after a very considerable study, a study by expert engineers, a study by expert accountants. In any case which I have ever been connected with there has been a large amount of time necessary for such investigations. Even the smaller cities of 50,000 population have found it necessary to go into the matter quite exhaustively. The company will do that, and the public must do it in order to present its side of the case, and the court should have all of that information before it. It would certainly be impossible for me to go into a full consideration of the proper price in Washington with the very small amount of available data at present. All I shall attempt to do will be merely to call your attention to two or three things, which I think no one will controvert.

Mr. TAYLOR. Was not the price of gas yesterday found by the House to be worth 75 cents?

Mr. OLCOTT. For the public schools.

Mr. TAYLOR. Well, if it is worth 75 cents to the Government, I think it is worth 75 cents to the individual.

The CHAIRMAN. Allow me to ask you whether, with the experience you have now had with the Washington Gaslight Company, you are able to say what the price of gas should be here?

Mr. BEMIS. I was going to say a few things about that, and I think perhaps it is best to say them in the way I am going to do. I said a moment ago that I have not information enough, and that it is impossible for anyone to have information enough, to settle that question offhand, but what I am going to say is this: That there are a few facts that no one can controvert. The company has made a report, which I have already referred to, for the year 1907, and it is embodied in House Document No. 609, Sixtieth Congress, first session. It is the annual report as of February 1, 1908, signed by John R. McLean, president, and furnishes a list of the stockholders. It is not to be assumed that the company will put its profits too high or its cost of gas too low. The tendency rather, I should think, would be in the opposite direction. The company has stated that after paying all expenses and providing for a depreciation and renewal account, it had left the profit paid as dividends of 10 per cent on its stock, and an average of 5.625 per cent on some improvement bonds, of \$598,700. It also paid 6 per cent on \$2,600,000 of certificates of indebtedness, which represented apparently, as I have said before, a stock dividend out of the consumer; and in addition to that, as I have already indicated, they earned and put into the plant a surplus of about \$270,000. Now, that amounts to 14.57 cents per thousand feet of gas, and the average price, they say, for their gas was a dollar.

Mr. TAYLOR. Is that 14½ cents profit per thousand feet?

Mr. BEMIS. After paying dividends and interest. Their actual cost, they claim, was 62 cents.

Mr. CAMPBELL. For manufacture and distribution both?

Mr. BEMIS. Manufacture, distribution, depreciation, and renewal. They claim that they had to put into the plant after paying interest and dividends 14.57 cents. They could have, according to their own report, furnished gas at about 85 cents, and still have paid interest, dividends, renewal, and depreciation account which they did pay.

Mr. TAYLOR. On their own capital stock?

Mr. BEMIS. Yes. At a price of 85 cents, that would be 10 per cent on the stock, 6 per cent on the certificates, and an average of 5.625 per cent on the bonds.

Mr. TAYLOR. Including fixed charges?

Mr. BEMIS. Everything, including 10 per cent on the stock, 6 per cent on the certificates of indebtedness, and the interest they paid on the bonds.

Mr. CAMPBELL. That includes all fixed charges, rents, salary, and other expenses that would not be included in the manufacture and distribution, and the depreciation?

Mr. BEMIS. Yes.

Mr. OLCOTT. Following out the remarks that you made when you began, you rather approve of their keeping some surplus providing they do not attempt to capitalize the surplus afterwards. Say we have 14.57 cents taken off, and the gas sells for 85 cents, which includes this surplus, I imagine you think that would be a good thing for them to have in case of an emergency when they could not get money.

Mr. BEMIS. I am glad you brought that out. I said the plan in Massachusetts had been along that line for years, but experience had shown that it was unwise. Approaching it from another point of view, the company claims an actual operating cost and expense of renewals to meet depreciation of 62.116 cents, but in that amount there are three items of expense at least which I think would be subject to criticism, to say nothing of what an exhaustive study of their books

and accounts would reveal. These three items are, first, they have a leakage of about 10 per cent, while good companies like Boston, Baltimore, Chicago, and many others have a leakage below 5 per cent; 3 or 4 per cent, I believe. A leakage of 5 per cent would reduce their expense about 2 cents per thousand feet.

Mr. KELIHER. Is that due to lax methods or a poor plant?

Mr. BEMIS. Some fault of the system, or care for it; I would not undertake to say now what. You will find plenty of small companies that have a leakage of 10 or 15 or even a greater percentage, but I speak of the better companies.

Again, they have a legal expense of nearly 2 cents per 1,000 feet, while the average expense per 1,000 feet for legal expenses of all the 60 companies in Massachusetts is less than 1 cent—about three-quarters of a cent. They have probably had an extra expense on account of this litigation, and they have doubtless charged that up to the consumer, and the propriety of that is open to discussion. It certainly is not a normal amount.

Then they have charged in as operating expenses interest on deposits of consumers, which is a capital charge. In other words, they make the consumer in many cases put up a deposit, which is perfectly proper to do, but the interest on it is not an operating cost; it is a capital charge, if the deposit is used as capital; and therefore in speaking of operating cost we ought to exclude any interest charge and put it in the capital account.

Mr. OLCOTT. How much difference does that make?

Mr. BEMIS. The three together make 3.2 cents, and taking that from the 62 cents, about, you have 58.9 cents.

Mr. OLCOTT. I understood you to say 2 cents for the legal cost and 2 cents for the leakage.

Mr. BEMIS. I only took off one of them; I took the average, that is, I took 1 cent out of the two. It is 5 per cent, which would mean only about 2 cents per thousand feet.

Now, that reduces the expense, even by those cursory suggestions, to 58.9 cents. Since that includes repairs and renewals, they can easily be obtained. There has been recently a decision in the little town of Cedar Rapids, Iowa, where Judge Ellison, of the Iowa state court, has lately ordered a reduction to 90 cents, although the operating cost was 68 or 69 cents, more even than this cursory examination indicates in Washington.

Mr. TAYLOR. And then in a town of smaller size it costs more to produce gas than in a larger place?

Mr. BEMIS. Very much more. If Boston can sell gas at a profit at 80 cents, it would certainly appear that Washington, which is nearer the coal, gas, and oil fields, ought to do so.

Mr. KELIHER. From your investigation made here, how do you think the principle of the sliding scale in operation now in Boston would apply to the local conditions here?

Mr. BEMIS. I should not want to make any suggestions of how to apply it without more study. Of course, it could be applied by taking a price and a dividend, and letting the company change the price 5 cents, and then change the dividend 1 per cent after that, and so on, but you would have to be careful as to the amount of stock you allowed them to start with.

Mr. KELIHER. But from what you learned in Boston, it is an unqualified success there?

Mr. BEMIS. It has been a success up there; I do not say unqualified, because there are criticisms of it; but President Richards is a magnificent manager.

Mr. CARY. Have you any statistics concerning the gas company in Milwaukee?

Mr. BEMIS. No; I have never had occasion to investigate it, but I know they are charging in the neighborhood of 80 cents for it, and at Detroit and Grand Rapids about the same.

Mr. CARY. The Milwaukee Gas Company rate is from 60 to 80 cents per thousand, according to the amount used; and not that alone, but they give a certain percentage in wages every six months to employees.

Mr. BEMIS. They do that in Boston; therefore I should say that 85 cents is a maximum charge, and it looks, from all of these considerations, that it should be considerably lower than that, but I do not want to make any definite statement now, because it should be a matter of careful investigation.

The CHAIRMAN. I wish you would explain what causes the difference in cost in the difference in candlepower.

Mr. BEMIS. Candlepower is high here, as it is in Chicago, Philadelphia, and New York, and the difference of five candles will make a difference of about a gallon of oil per thousand feet, and that will cost them from 4 to 5 cents.

Mr. TAYLOR. The candlepower here is about 22?

Mr. BEMIS. The average of the District is about 23. The law requires 22.

Mr. TAYLOR. That is high. It runs as low as 15 in illuminating gas in other places?

Mr. BEMIS. In Boston the average was 18.3 last year, according to the state inspection.

The CHAIRMAN. What is it in Milwaukee?

Mr. BEMIS. From the data I have from the president of the company, I am told that it is about 18, and also that in Detroit and Grand Rapids. In Chicago it is 22, Philadelphia 22. It is 24 in Chicago a mile from the works.

Mr. SMITH. I have the honor to represent in part the city of Detroit, and during nearly all of last winter, after reducing the price of gas to 80 cents, the papers were filled with statements from people to the effect that their gas bills were larger than they were before. Will you please explain what brings that about?

Mr. BEMIS. If there is a proper testing of the gas, it can not occur. What often happens is this: That the people, since the reduction in the price, use a good deal more for fuel purposes, cooking, and so forth.

Mr. TAYLOR. Yes; it is just like in the cheapening of railroad and street-car fares; they ride more and use more money.

Mr. BEMIS. What really happens, they use more gas and less coal.

The CHAIRMAN. What course do you think we ought to pursue in order to get at a fair price for gas in the city of Washington? I wish you would indicate just what you think we ought to do.

Mr. BEMIS. I think you ought to repeal this law, and have a thorough investigation of the books of the company running back several years, going fully to every account as to what it costs them, find out just how much it has earned out of their dollar and put in the plant every year, and just what it has cost them before they did that. Also get some idea of the average expense as compared with last year, and whether last year was normal or abnormal.

The CHAIRMAN. You do not think we can get at the price to fix by spending an hour in this way, with all due respect to you?

Mr. BEMIS. No; and I do not come—

Mr. NYE. Your conclusion ought to be worth something to us, however.

Mr. BEMIS. Of course you can do this: You can pass an act making a reduction, assuming that the courts will not hold it to be confiscatory, and that the courts will declare it confiscatory if it does reduce the price too low. You can pass an arbitrary act saying that you think that the circumstances justify 80-cent gas, or whatever you fix, and leave it to the courts to go into the investigation. Undoubtedly some time or other there will have to be an investigation. Make it 75 cents, if you wish; but I think it would be better if you can have this investigation, and if you can do that I think you can pass an act making a conservative reduction, but not going to the extreme limits, and then leave it to the courts for further investigation.

Mr. CARY. But you think 85 cents would be the maximum?

Mr. BEMIS. I do not see how you can possibly make it higher than that, in view of this company's report.

Mr. MURPHY. The courts would probably investigate anyway.

Mr. BEMIS. It would depend a good deal upon what the evidence is. It is pretty hard for the company to go back on its books in the courts.

Mr. TAYLOR. Can you give the name of some city located very much as Washington is, and about the same size, containing, say, 325,000 people or about that, and located as to fuel and supplies about the same, so as to have about the same cost of production?

Mr. BEMIS. The only city I think of at the moment is Baltimore, but Baltimore is not situated quite the same.

Mr. TAYLOR. What is the rate there?

Mr. BEMIS. It varies from 85 cents to a dollar, I think. I have not the lowest figures. It may be lower now, but that was my information a few months ago. But you can not very well be guided by Baltimore, for the reason that there has been no great effort made to get a low price there, and that is true of four-fifths of the cities of the country. The people have not paid much attention to it.

Mr. NYE. Are you familiar with the condition in Minneapolis?

Mr. BEMIS. I once lived there, but it was many years ago.

Mr. NYE. We approximately have 300,000 people.

Mr. BEMIS. Yes. The price of gas is 90 cents there now, is it not?

Mr. NYE. Yes; they have been paying a dollar up to recently, and have been squabbling over it for a year, insisting upon a reduction to 80 cents. I do not know whether they have come to a conclusion upon it or not.

The CHAIRMAN. If a dollar is a fair price for 23-candlepower gas, in the same proportion what would 18-candlepower gas be worth?

Mr. BEMIS. About 5 cents less, I should think.

Mr. OLCOTT. Did you come here at the request of a citizen of Washington?

Mr. BEMIS. Yes; Mr. Welliver, of the Washington Times.

Mr. SIMS. Considering the gas that is made here, 23-candlepower, and taking into consideration such facts as you have been able to gather from your limited investigation, what do you think the maximum reasonable price for gas to private individuals in this city should be?

Mr. BEMIS. It should run somewhere between 75 and 85 cents. It might be as low as 75 cents, and it might be as high as 85 cents. But I do not like to take a very decided stand without having an opportunity to go into it further.

Mr. SIMS. It would be more of an estimate than a scientific conclusion?

Mr. BEMIS. Yes.

Mr. CARY. Would 80 cents be a fair price?

Mr. BEMIS. The more I look into this the more I think the price can be somewhat lower to the city than to a private consumer, although the difference in cost would not be large, but may be from 2 to 5 cents.

The CHAIRMAN. Of course you do not know what the present physical valuation of either the Washington Gaslight or the Georgetown Gaslight Company is, do you?

Mr. BEMIS. No.

The CHAIRMAN. Would the price that the stock has been costing the stockholders for the past few years make any difference as to the price of gas?

Mr. BEMIS. I do not think it ought to.

The CHAIRMAN. There is a gentleman here, a citizen of Washington, who would like to ask you a question.

Mr. TUCKER. Suppose we took out of those items of cost the renewal expense and add that to their capital, how much would that reduce the 85 cents, on their own report?

Mr. BEMIS. As to the renewal account, it was about 3 cents, so if I took out that it would be about 82 cents.

COMMITTEE ON THE DISTRICT OF COLUMBIA.

Wednesday, April 15, 1908.

*Committee called to order at 10.20 a. m., Hon. SAMUEL W. SMITH in the chair.

COST OF GAS.

Statement of Mr. Alexander C. Humphreys, residing in Morristown, N. J., doing business in New York, and president of the Stevens Institute of Technology, Hoboken, N. J.

The CHAIRMAN. You may go ahead in your own way, Mr. Humphreys, but I think it would be well for you to make a statement showing your experience in this subject.

Mr. HUMPHREYS. I have been connected with the gas business since the year 1871, and from the year 1872 have continuously been in charge of one or more gas companies, running all the way from one company up to as many as fifty at one time. I graduated from the Stevens Institute with the degree of mechanical engineer in 1881. Immediately after that I became chief engineer of the Pintsch Lighting Company, which is the company lighting cars, buoys, light-houses, and so forth, with compressed-oil gas.

In the year 1885 I became superintendent of construction of the United Gas Improvement Company, of Philadelphia. Three months later I was made general superintendent and chief engineer, and shortly after put in charge of all their operating concerns. When I left them at the close of 1894, we were operating something over 50 different companies, I being responsible for the commercial operations, engineering, sales of apparatus, and so forth. In the year 1892 I started the firm of Humphreys & Glasgow, of London, which firm has built probably 75 per cent of all the water-gas plants built in the world outside of the United States. In the year 1894 I started the firm of Humphreys & Glasgow, of New York, which has since then done a consulting engineering business in gas, and largely has been concerned in making appraisals and directing financial people as to investments in that line. In the year 1902 I was made president of my alma mater, the Stevens Institute of Technology, and now conduct

the affairs of that institute while conducting my professional business. I happen at the present time to be president of the American Gas Institute, which is a consolidation of the American Gaslight Association, the Western Gaslight Association, and the Ohio Gas Association. I am past president of the American Gaslight Association. I belong to most of the engineering societies of America; I am a member of the council of the American Association of Mechanical Engineers and a member of the British Institute of Civil Engineers, and so forth.

If I might be permitted, as I am deeply interested in the subject, and I think it may be pertinent, I would like to refer to an article that I saw in the Washington Times last night, which speaks of the doctoring of the books and the papers of the New York Consolidated Gas Company, and as to their having been proven to be in error. If that be so, it is absolutely opposed to my understanding of that matter, because I was in that case, and am still in it, was in it for a year and a half, and I went into the books in great detail and never found, in checking up with the chief accountant, Mr. Carter, who is now vice-president, any more than the ordinary errors one would expect to find. On the contrary, I was very much astonished to find how very accurately they brought their matters before me for me to digest before I went on the stand as a witness. I will say further that I have not found anything in my analysis of the accounts of the Washington Gas Company to indicate that there is anything wrong with their accounts.

Mr. SIMS. To what do you refer—to their reports issued to Congress from year to year?

Mr. HUMPHREYS. Yes; or to matters brought to my attention alone. I will say that I have not had an opportunity to go into this thing exhaustively, as I was called suddenly, but I have been more or less familiar with Washington gas affairs for a number of years. I made an appraisal of the plant, I think, in 1898, and another one some few years later, and have been called in from time to time, so that in a general way I am familiar with the Washington plant and business, but I do not pretend to be familiar with all the business details connected with it by any means.

The CHAIRMAN. I think that editorial in the Washington Times to which you referred should be introduced in the record.

Following is the editorial referred to:

SOME "COST FIGURES" ON GAS.

[Washington Times, April 14, 1908.]

A fine mess has been stirred up in New York, as a result of the charge that the Consolidated Gas Company submitted false records to the court in the recent investigation to determine whether gas could be sold for 80 cents per 1,000 feet.

Legislation had reduced the price from \$1 to 80 cents. The gas company enjoined the rate. The court named a master to hear evidence. The master sent for books, papers, and witnesses of the gas company. The cost of making and distributing gas was investigated in detail. The court decided that 80 cents was too low, but found that about 85 cents would be fair.

Now, information has reached the authorities in New York that the Consolidated Gas Company made up misleading and untrue statements of cost; had sheets inserted into the ledgers from which employees read; suppressed the carefully prepared and accurate "cost sheets" kept in the offices, and forced employees to swear to the accuracy of all the mass of doctored testimony brought forward.

The experts on behalf of the State found that gas ought to cost 54 cents. The books of the company made it 74.

The charge is now made that the State's experts were correct to within a cent or two; that the doctored ledgers and lying affidavits served to add 20 cents to apparent cost; and that, instead of 85 cents, something like 65 cents would be the fair and reasonable price of gas. This, be it understood, for one of the most outrageously overcapitalized concerns in the country.

Attorney-General Jackson is going after the Consolidated, and will get to the bottom of these charges.

If he proves them correct, he will deprive the Washington gas monopoly of one of its pet arguments against reducing the price of gas here.

The fact that the courts held 80 cents unreasonably low in New York has been a dainty and delicious morsel to roll under the tongue of every special pleader for the gas monopoly. It was made to answer every argument.

"The charge that the New York price was swollen 20 cents per 1,000 by perjury and falsification of course will not get much attention—at the hands of the gas-monopoly lawyers.

"But it illustrates handsomely how these things are done. Professor Bemis showed from the gas monopoly's own report that it can sell gas in Washington at 82 cents and make a 10 per cent dividend. That, of course, is an excessive dividend. Grant a 6 per cent dividend—that is what the court was willing to do in the New York case, which the gas monopoly has loved to quote—and 80-cent gas would be highly profitable here.

"Incidentally, it may be observed that the annual report of the Washington Gas Company needs attention, and a good deal of it, before it will be entitled to any high rating for honesty and candor.

"Repeal the gas-inflation act.

"Pass a 75-cent gas law.

"And then let the gas monopoly enjoin the new price and have a judicial determination as to what is reasonable.

"That is a fair course to all concerned."

Mr. HUMPHREYS. I had drawn to my attention last night some sort of a communication, as I understand it, made by some people in Washington, giving the population of different cities and the prices charged for gas. I started in to check up every one of them, from Brown's Gas Directory, which is evidently the source from which they were obtained, as I notice that the populations are sometimes generally a little less than I found them to be in 1907 in Brown's Directory, and so I think that they have probably used that directory for the year before. I will not attempt to read those that I have checked up, but I will show you enough to demonstrate that the schedule as prepared is absolutely reprehensible and unreliable.

The CHAIRMAN. Please state what schedule you are referring to.

Mr. HUMPHREYS. It is a schedule that has been brought into this case, so I was told last night, in connection with some computation made. For instance, it starts off this way: "On the question whether gas ought to be sold in Washington for less than a dollar, the following list of cities is given in which it is sold at from 30 cents upward; in which, in all cases, artificial gas only is referred to; in none of which is the price so high as \$1, and in which few have coal as cheap as Washington." That is all I know about it.

Mr. SIMS. Where does that come from?

Mr. HUMPHREYS. From some citizens' committee, I understood.

Mr. SIMS. Does it not show what it is?

Mr. HUMPHREYS. No; because I only picked up the one sheet that was given to me.

The CHAIRMAN. Just one moment; I want to get the straight of that, so that we will know what we are doing.

Mr. SIMS. Yes; that would be well, because I thought that Mr. Humphreys referred to some member of the committee.

Mr. HUMPHREYS. No; some citizens' committee.

The CHAIRMAN. I did not know but that it was the list that was published in one of the evening papers some time ago.

Mr. SIMS. I think it is.

Mr. CAMPBELL. I do not find such a resolution among the papers in the case here.

Mr. HUMPHREYS. I am sorry that in my haste I did not learn its origin.

The CHAIRMAN. For one, and as a member of the committee, I am anxious to hear Mr. Humphreys's views about that, because there has been published in the papers at different times a list of the different cities of the Union, with the respective prices of gas, and I would like to hear what Mr. Humphreys has to say about that by way of comparison.

Mr. CARY. Have you read the list?

Mr. HUMPHREYS. I have started it, and I can introduce a few words upon it later.

Mr. SIMS. I think it will be well for you to go on and give your testimony in your own way. We simply want to find out what instrument it was you referred to.

Mr. HUMPHREYS. This list here before me gives the price of gas in the city of Oakland, Cal., as 90 cents, when, in fact, the net price for light is \$1.15 and for fuel 90 cents, and the average last year was \$1.033. Bridgeport, Conn., is stated as 90 cents, whereas the price is from \$1.15 to 90 cents, and the average \$1.024. I particularly call attention to the fact that in the statement preceding the table of prices, as already quoted, it says that the following list of cities is given in which gas is sold from 30 cents upward, but in all of which cases it is artificial gas. Akron, Ohio, is then given as furnishing artificial gas at 30 cents, whereas the statement of the company, as it appears here in Brown's Gas Directory, directly states that the artificial gas works have been closed, and they are now selling natural gas.

Mr. McGAVIN. In regard to these places that you have mentioned, and the discrepancies between the statements made there and what you claim to be the actual price of gas, do you know whether or not there is a minimum price they can charge in those places?

Mr. HUMPHREYS. Yes.

Mr. McGAVIN. What is the minimum charge? I think you stated that it was 90 cents at Bridgeport, Conn.

Mr. HUMPHREYS. Yes. What they have done is this: This list has been made from a statement showing a range of prices running from a higher price for gas used for light to a lower price for gas used as fuel, and the lowest price has been quoted, with no mention of the higher price. Brown's Gas Directory gives a price net for light and another price net for fuel, and also gives the per cent of the gas consumed for fuel—and with these data you can make up an average, and while it might not be correct to a fraction of a cent, it will be practically correct. This is the way I have prepared my figures for the comparisons, whereas in making up this table they have taken the minimum price, which does not take note of higher prices charged, and hence is not the average price. The prices used in the table in most cases only cover the large wholesaling of gas. Not to weary you with references to all the cities named let me speak of a most flagrant case. I speak of Superior, Wis., where the table gives the price as 75 cents, whereas the price is for light \$1.60 gross and \$1.40 net; and for fuel \$1.20 gross, \$1 net. For power it is 95 cents gross, 75 cents net; and the proportion of fuel and power is 35 per cent. The only thing that I haven't got to figure on is the division between the amount used for power and the amount used for fuel, but I assume that there will be at least 20 per cent used for fuel and not more than 15 per cent for power, and if I had all the data, I should not expect to find that more than 5 per cent was sold for power. I find that this is a remarkable case, that while it is stated in this table that the price is 75 cents, if we omit from consideration the gas for fuel and power, and simply take the amount received for light alone, and distribute that all over the gas sold, that alone will give an average of 91 cents per thousand instead of 75 cents. I wish this to be understood, so I repeat: If I eliminate all the fuel and the power gas, and take the receipts from the light gas alone, the illuminating gas, and distribute that over all the gas that is sold, it will still give an average price of 91 cents, and this in spite of the fact that the price is given as 75 cents. But figuring in the fuel gas and the power gas, according to the percentages named, I find that the average price is \$1.224 instead of 75 cents.

Mr. CARY. Will you now please take up some first-class city? These are second and third class cities, as I understand it; but take up a city of the size of Washington, and let us hear what the price of gas is in those cases.

The CHAIRMAN. Let me suggest that you take Detroit.

Mr. HUMPHREYS. Very well; I think that happens to be one that is mentioned here. Detroit is named here as 80 cents. The fact is that Detroit has a sliding scale, according to how much you use, or the purpose for which it is used, rather, and the price is from 90 cents to 60 cents. I figure that the average will be about 85 cents instead of 80 cents.

Mr. CARY. Have you Milwaukee there also?

Mr. HUMPHREYS. Milwaukee is down here at 60 cents. As I figure it out, it will be 85 cents on the average; that is, light, gross, \$1.20 to \$1 net. Fuel, gross, \$1 to 80 cents.

Mr. CARY. But that is wrong. It is from 90 cents, and 10 per cent off, and from 80 cents to 60 cents.

Mr. HUMPHREYS. Yes; that is it. Fuel, gross, \$1; net, 80 to 60 cents. The proportion of fuel is 54 per cent, and that would make it average about 85 cents. You have got to take any proportion at the average prices in order to arrive at the average price. It is from 80 to 60 cents for fuel gas.

Mr. CARY. That is not as shown in their reports, is it? I live there and I pay my bills there. Here are the figures on the back of the bill. Some two or three years ago they had a separate price—

Mr. HUMPHREYS. This is their own report for 1907.

Mr. CARY. They used to have two meters, one for fuel and one for illumination, but now it is all registered by one meter, and this is what is charged.

Mr. HUMPHREYS. It is 90 cents gross, with 10 per cent discount, 80 cents net for the first 10,000, and the next 10,000 80 cents, 70 cents—if that is it, then they have gone back to the one-meter scheme, and

of course in that case I would be in error on that. I take the same source of information, however, that these people have taken.

Mr. CARY. That is in case they do not pay their bills inside of ten days?

Mr. HUMPHREYS. Of course. In one company that I am connected with—the Buffalo Gas Company, of which I am president—the unaccepted discounts sometimes amount to quite a considerable sum.

The CHAIRMAN. I want to ask you a question which I asked of Mr. Bemis, and it is this: As is commonly known, Detroit is selling gas at 80 cents, but the newspapers of Detroit last summer were constantly giving complaints of people to the effect that while gas was said to have been reduced in cost, yet their gas bills were higher than before. They said that they thought that was brought about in some way by the pressure. I wish you would explain that, for I do not understand it.

Mr. HUMPHREYS. In both Detroit and Milwaukee they have the advantage of using gas produced by a by-product from coke ovens, operated by an independent company, where the principal purpose is to make coke as the product of the business, and sell the gas for what they can get for it. Of course they get the best price they can. It is a scheme outside of the gas company, but they have got to get rid of the gas at a fair price in order to make the coke-oven business pay.

Mr. CARY. Now, I wish you would put that right. It is not true that the gas is the second consideration. You are referring to the Semet-Solvey Coke Company, but that is a different proposition from the Milwaukee Gas Company.

Mr. HUMPHREYS. Certainly it is.

Mr. CARY. The Semet-Solvey Coke Company have had to get rid of their gas in some way, and they forced the Milwaukee Gas Company to buy it, but the Milwaukee Gas Company first started out in the fifties to manufacture gas, and my grandfather was one of their first foremen. At that time they gave the coke away, but finally a price of 6 cents a bushel was paid, then it went up and up, and now they get \$4 or \$5 a ton. But I want to say that the gas is a first consideration.

Mr. HUMPHREYS. But there is no difference between us. The Coke Oven Company sells its gas wholesale to the gas company, and the gas company thus has the advantage of buying cheaper gas. The Semet-Solvey Coke Company is a coke-producing company, so far as their plant is concerned, and it is a business with which I am somewhat familiar. I was for a number of years vice-president of the United Coke and Gas Company, which has operated coke-oven plants and has built a number of these plants in the United States, including the one in Boston.

Mr. CARY. Now please excuse me for interrupting you again, but I want to say that the Semet-Solvey Coke Company started about three years ago, and after a year or so, there being no way to take care of the gas, they came to the council with a proposition for a franchise, and we all knew that it was nothing but a subterfuge to scare the gas company into taking this gas off its hands, and it turned out that way, and I helped to bring it about, too. Of course I thought that that would tend to cheapen the gas.

Mr. CAMPBELL. Have they reduced the price of gas since they have been able to get it from the coke company?

Mr. CARY. No; it is just the same.

Mr. SIMS. What do they give the coke company for their gas?

Mr. CARY. I could not say, but it is very little.

Mr. MCGAVIN. But they have done away with the two-meter system since then?

Mr. CARY. No, that was done away with before—no, I would not be sure about that; I would have to look that up and see.

Mr. HUMPHREYS. I think it was after that. I want to say that there is no difficulty between the gentleman and myself. My point is that there is a separate company making coke, and they can afford to sell gas to the local gas company at a lower rate than they could make it themselves, which enables them to sell it for less to the people.

Mr. SIMS. What rate do they get?

Mr. HUMPHREYS. I have forgotten the rate.

Mr. SIMS. If the price of gas has not been reduced since this was done, then what effect did it have?

Mr. HUMPHREYS. It was reduced, I am quite sure. This gentleman, Mr. Cary, has shown that there has been a reduction between 1907 and the time when this bill was made out. Their own report shows one thing, while their bill states another thing. I am inclined to think that in going back to the one-meter system the price was reduced.

Mr. SIMS. Relatively, how much gas does the coke company furnish, as compared with the total volume sold?

Mr. HUMPHREYS. That I do not recollect. It is a very large amount of gas. It is the same in Boston, where the coke-oven gas is made by the New England Company, and that is a very large proportion of the gas made; and there they have the advantage of a special contract with the Dominion Coal Company, which was made while the two companies were in accord in management. This enables the Boston company to give a price which no other company would attempt to give.

Mr. SIMS. I hope you will get down to the city of Washington in the course of the hearing; that is what we are considering.

Mr. HUMPHREYS. Now, Mr. Chairman, you asked me as to the city of Detroit; why, if the price is reduced, the bills for gas remain the same. I think that is one of the places referred to by Mr. Bemis—one of the chief places—and I would agree with him on that, that it is due to a large extent to the fact that when people get things cheaper they use more of it. They are not as careful about their bills, and I will also say that the candlepower is very low. It is only 17.

The CHAIRMAN. Now, please explain about that question of pressure. That is what I do not understand. I am told by some that they have a means of manipulating the pressure in some way so as to increase the amount of gas consumed, and I would like to know about that.

Mr. HUMPHREYS. That is a very interesting question, and it has been brought up a great many times in connection with this discussion in many large cities in the United States, but there is a misconception in regard to the whole question. So far as it actually increases the amount of gas delivered through the meter by reason of the increased pressure, which of course means an increased compression for each volume of gas going through the meter, you would have a little more gas under the higher pressure than under the lower pressure. If I compress the gas to two atmospheres above the absolute zero, I would be delivering through the meter twice what I would deliver at the atmospheric pressure of about 15 pounds to a square inch—that is, I would compress twice the amount of gas into a given space. They would probably answer that by saying that that is not the point we make. The point is, by increasing the pressure the gas is forced through the burner at too rapid a rate to give a satisfactory light, which to a certain extent is true. If you burn gas under excessive pressure, then you get a poor flame, and in that way you get less

light, but that is in the hands of the consumer, and he can turn it down himself. But if there is a constantly excessive pressure due to the fact that a house is on a hill, that can be regulated once for all at the meter cock so far as the general regulation is concerned. For instance, all who use the Welsbach burner know that you can not get a proper result by simply turning the cock and lighting the burner. It has to be regulated, and that is done at the burner itself. I do not believe that that is any real cause for complaint excepting where there is a distinctly excessive pressure at a certain point due to the fact that they can not force the gas through the weak spots of a city without putting excessive pressure on the points which have large enough mains. In the case that I have cited, the consumer on the hill would get too high a pressure, but even then it could be regulated by the two cocks, first at the meter, and then at the burner itself; and that is being continually done. But here is where the trouble comes in: If you have a pressure that varies between day and night, from an excessive pressure to a pressure that is too low, then you will be led, by necessity, to regulate it from time to time during the evening, which would be very annoying, and I know for one that I should kick. But that is a rare case.

The CHAIRMAN. If gas can be sold in Detroit for 80 cents, and Detroit has about the same population as Washington, why can it not be sold in Washington for 80 cents? That is what we would like to know, and that is what we would like to have you explain.

Mr. HUMPHREYS. Now, I can not tell you in figures, but I can tell you in a general way. Of course the fact that you can sell gas in a certain place for a certain figure is not a good reason why you should sell gas in another place for the same figure. But if I had known just exactly what questions I would have to answer, I should have brought more figures with me. Coal is dearer here than in Detroit. It is a question of relative price all the way through, and a great many things enter into the question of cost. Now, for instance, you have here some of the conditions which are so onerous in New York—expensive street pavements, regulations as to quality, carrying excessive penalties, and the like. A large amount is paid out for renewals of expensive pavements. In some cities we do not have as much of that, if at all. In some cities the renewal of pavements practically amounts to but little, because they use very little expensive pavements, such as asphalt, but use block pavement, which can be more easily taken up. Here I suppose the pavement renewals would amount to \$12,000 or \$15,000 a year. All those things count up; in other words, you can not take two places and put them side by side, and because the population of one is about the same as the other make a comparison and assume the same price should be charged in both.

Mr. MCGAVIN. But if you assume that the cost of production is about the same—as to Detroit, I think you are mistaken about the coal; I think it is dearer there than it is here, and I think you will also find that labor is dearer in Detroit than in Washington.

Mr. HUMPHREYS. I feel sure I am correct, and if the committee will allow me I will submit a memorandum on that.

Mr. OLCOTT. Yes; we want to know about that question of coal and labor.

The CHAIRMAN. I do not pretend to know anything about gas; I am seeking light, and that is the reason why I am asking these questions.

Mr. CAMPBELL. Would it be too much trouble to have you state, in the memorandum, the relative cost per thousand feet for Milwaukee, Detroit, and Washington or at any other cities that are similar in size and location?

Mr. HUMPHREYS. Of course Cleveland and Cincinnati pay a much lower price for coal.

Mr. CAMPBELL. And also the relative consumption in these cities per inhabitant.

Mr. SIMS. Is it not easy enough to take the coal cost in any one of these cities per thousand feet and the coal cost in Washington per thousand feet and make a comparison on that basis?

Mr. HUMPHREYS. It is easy enough as far as that one item is concerned if I can get the figures. I do not know, but I think they will give me the figures.

Mr. CAMPBELL. Do they make water gas here?

Mr. HUMPHREYS. Oh, yes; they make both here. That is a very complicated question, when you bring the two things in.

Mr. CAMPBELL. In connection with that question, please give the cost of distribution in the several cities and the cost of fixed charges per thousand.

Mr. HUMPHREYS. Of course you are asking me for a good deal, and I will have to get some of this information.

Mr. CAMPBELL. But it goes right to the meat of this matter.

Mr. HUMPHREYS. As to a good many of these things, I can answer right from my office, but I would have to get permission. I would have to make some examination of the works, and of course I could not use that information without the company's consent. But one point in that connection might be emphasized, and that is that people are apt to think that when they have made a comparison of the cost of manufacturing gas they have virtually covered the cost, but the fact is that there are other items of cost that vary greatly throughout the United States; for instance, we generally say that it costs more to make and distribute gas in the smaller places than in the larger places, but I know a number of small places that can distribute gas at considerably less than New York City can, on account of the conditions; and those things have to be brought into account.

The CHAIRMAN. Should not gas be sold cheaper in New York City than in Washington, considering the population and everything?

Mr. HUMPHREYS. No; I think not. There are some things in favor of New York and some things in favor of Washington. Washington has a large sale per capita, but New York has still larger. New York has a large sale per mile of main and very condensed districts. But, on the other hand, they have very heavy expenses on the streets. I have known them there to make a little change that would cost, under ordinary circumstances, a few dollars, but they had to pay out thousands of dollars to get ready to do it on account of the obstructions in the streets. And all that has to be charged up to operating expenses, to renewals or repairs. So it is an extremely difficult matter to analyze fairly the relative costs, and, consequently, what should be the relative prices in the different cities.

The CHAIRMAN. When you began your statement you referred to an editorial in the Washington Times of last evening and said that in your judgment the statements in that editorial were not correct. Do I understand you to say that there was not any fraud practiced in New York, as that article sets forth?

Mr. HUMPHREYS. Yes, as I said, I was in it, and so far as I know it is an absolutely false statement.

Mr. CAMPBELL. Are you familiar with the books of the New York Consolidated Gas Company?

Mr. HUMPHREYS. To this extent, that I did not accept any of their statements on which I was to testify, but I checked up the books as they were offered to me, the accounts, going into the books on the different cases and checking them up to see if I could make the statements tally.

Mr. CAMPBELL. That is, you checked up the accuracy of the statements in the books before you went on the stand to testify?

Mr. HUMPHREYS. Do not understand me as saying that I checked up every voucher, but I took different items and checked them up, and spent probably two months at it in the endeavor to see that the statements would tally; and I will say that the errors were extremely few, so much so as to astonish me; and the man in charge, Mr. Carter, is one of the fairest accountants I have ever met. I do not think you could get him to tamper with the books in the smallest details.

Mr. MCGAVIN. But it might be that there were conditions and things which they would not disclose to you, or which they would not want to disclose to the public.

Mr. HUMPHREYS. I would not go into a case if I found anything of that kind had happened.

Mr. MCGAVIN. Of course I am not reflecting upon you, but I mean to say that there might have been a good deal they would not disclose to you as an expert, and perhaps which might have been material to that case.

The CHAIRMAN. Did you have free access to the books in that case?

Mr. HUMPHREYS. Yes; anything I asked for, and understand that that was a case where, if I failed to check up according to the statements submitted, I would have to work perhaps two days before I could get an agreement, and why? Because the commission was demanding a classification that did not agree with their books, and therefore it was necessary to reclassify the accounts to meet the wishes of the commission. In doing that they naturally would make some mistakes, and in that way we got down to what the books showed. They had men working on the reclassification of the accounts of the books, so as to get the statements in the way the commission wanted them. The information was called for one way one day, and a different way another day. The result of the whole thing was that the unreasonable demands broke down a number of the company's men and one man had to go to a sanitarium on account of it. But when I finally got down to a complete analysis, and ran out these apparent errors to the end, I found that the statements checked with the books; and in my testimony, where they tried to show that there were items of disagreement, I accounted for every one of them that they put up to me.

Mr. KELIHER. Have you made any study of the gas situation in Boston?

Mr. HUMPHREYS. Yes; but not recently.

Mr. KELIHER. You know that we are getting gas there for 80 cents per thousand?

Mr. HUMPHREYS. Yes; you are getting gas for 80 cents, a large part of which is coke-oven gas bought from a company under a special contract, to which I referred, and that company has a special contract for coal; and on top of that the gas is of a much lower candlepower than is sold here—about 5 candlepower less.

Mr. KELIHER. It seems to be giving satisfaction both as to the price and the quality.

Mr. HUMPHREYS. Yes.

Mr. SIMS. What is the difference in cost per thousand feet due to the difference in candlepower?

Mr. HUMPHREYS. Somewhere around 6 cents, I should say.

Mr. KELIHER. What do you think of the sliding-scale system that they have in use there; what is your opinion of the principle?

Mr. HUMPHREYS. I think the principle in some ways is a pretty good one, but it will have to be introduced with great care. I doubt whether it is altogether satisfactory in Boston. I think if they are going to introduce the system here they ought to follow more largely the England idea, which is not to start off with the lowest possible price as a standard price. Some of the strongest men connected with the business in England—I think of one particular man with whom I have been associated for many years, an engineer and a barrister, who is a director in some eight companies, and who believes that it is not wise to adopt the sliding-scale principle, because in the effort to increase the dividends they usually skin the property and do not keep up the repairs. That has been shown, he claims, by an analysis of the working of the system in certain companies. But I simply mention that as one of the objections, and I should want to take up each case and examine it by itself in order to come to a final decision.

Mr. KELIHER. You do not mean to say that they have put the lowest possible price on in Boston for the standard?

Mr. HUMPHREYS. I say that they have gotten close to the lowest possible price and have left no margin. And I say this, that if Boston has had luck they will be in trouble, because they have no margin for contingencies.

Mr. KELIHER. President Richards, of the Boston Consolidated Gas Company, is rated as one of the cleverest men in the gas business in this country, is he not?

Mr. HUMPHREYS. Mr. Richards is an extremely clever business man, and is credited with being such, but I do not think he would claim to be an expert gas engineer. He is simply the gaslight company's business manager, and has had a wide experience in street-railway management and other public-utility concerns. He is a man that I have the greatest respect for, but I do not think Mr. Richards himself would claim to be a gas expert.

Mr. KELIHER. Have you heard that there is any marked deterioration in the equipment at Boston?

Mr. HUMPHREYS. No; I should not in any case expect to find that at once.

Mr. KELIHER. On the contrary, I have heard that the company is maintaining a very high standard of equipment, management, and everything else. I am surprised to hear you say that owing to the adoption of that principle the management of the company is suffering—

Mr. HUMPHREYS. Oh, I have not said that, if you will excuse me; and that is the trouble in a hearing of this kind. I have said that that was one of the dangers recognized by Englishmen, but I certainly would not want it understood that I have made any such charge as that against the Boston company.

Mr. KELIHER. Not to your knowledge?

Mr. HUMPHREYS. No. In my opinion, at the price they are now running, they are pursuing an unsafe course, and not providing for the contingencies that are liable to arise; for instance, the contingency with regard to electrolysis. We to-day do not know what electrolysis is going to do with our mains. In some cities it has occasioned great losses, and I myself, with a wide experience in that line, confess that I can not size the situation up.

Mr. KELIHER. Is that danger increased by lowering the price of gas?

Mr. HUMPHREYS. No; but the danger of ultimate loss to the company is increased; for instance, if they have not provided against this possible trouble with electrolysis, they will have heavy losses coming upon them not provided for in their ordinary depreciation charges.

Mr. KELIHER. Good judgment and good management should protect them from those losses.

Mr. MCGAVIN. Has there been anything found that will protect these mains from electrolysis?

Mr. HUMPHREYS. You can have had practice and comparatively good practice, but there has been nothing yet found that has been a complete protection against electrolysis.

The CHAIRMAN. Is there, in your judgment, a need for 23-candlepower gas in Washington?

Mr. HUMPHREYS. No, sir.

The CHAIRMAN. I wish you would devote a moment or two of your time to that. I have heard about a candlepower gas as low as 11 in some cities, and I think the average is 16 or 17, so I was wondering why 23-candlepower gas was necessary in Washington.

Mr. HUMPHREYS. I do not recall any gas in America as low as 11 or 12 candlepower, unless it is natural gas. Of course that will go lower than that. But the necessity for high candlepower gas does not exist to the same extent to-day that it did, say, eight years ago, when the Welsbach and similar burners—that is, the incandescent mantle burners—were not used to such an extent. The perfection with which we are now able to use the mantle burners with low candlepower gas has greatly reduced the necessity for high candlepower gas; in other words, what we want in that case is not the high illuminating value from the gas itself, but the high illuminating value from the mantle, which can be secured as soon as the gas has a sufficient number of heat units in it and sufficiently high flame temperature to bring the mantle up to a sufficient temperature. In England they have for many years run a number of companies—and that shows the practical side of the Englishman's character—in the southern part of England, where they only have ready access to the lower quality of coals, they always use a low quality of gas, but the farther north you go the higher the quality of gas, and when you get to Scotland the candlepower runs up pretty close to 28, but they use it to the best advantage. In Liverpool they use as high as 20 candlepower, and it has always been regarded as an extremely high candlepower city.

The CHAIRMAN. What would you say would be a fair candlepower for Washington?

Mr. HUMPHREYS. I should say that 18 candlepower would give excellent results.

Mr. CARY. Do you believe that the gas company furnishes 23 candlepower in Washington?

Mr. HUMPHREYS. I certainly do.

Mr. KELIHER. Is it fixed by regulation?

Mr. HUMPHREYS. It is fixed by the act which makes it 22, and with heavy fines which may run as high as \$100 a day.

Mr. KELIHER. Do they not furnish a higher candlepower than that?

Mr. HUMPHREYS. They must do that in order to deliver it to the houses and testing stations, which otherwise they could not possibly reach with 22 candlepower, and must make it as high as 24 candlepower in order to do that; and with certain qualities of oil that we have been forced to use of late, especially the oil from Texas, we could not deliver 22 candlepower without making it, in winter time especially, even higher than 24 candlepower.

Mr. KELIHER. But you think that 18 candlepower would be sufficient?

Mr. HUMPHREYS. Yes.

Mr. KELIHER. And what bearing would that have on the price?

Mr. HUMPHREYS. A bearing of 5 cents on the price, probably.

Mr. MOORE. That would be the difference in cost of production?

Mr. HUMPHREYS. About 5 cents, I say.

Mr. SIMS. Does the candlepower have anything to do in connection with the making of water gas; in other words, can you give as high a candlepower with water gas at a lower rate of cost than without the water gas? Which is the more expensive, water gas or the other?

Mr. HUMPHREYS. That is too broad a question to answer, but I will try to explain it, however. It is the most dangerous thing in the world to generalize in this business, and that is why I testify in this way, because as I testify, it is apt to be put down as an exact statement, whereas I must make a separate statement for each place. The cost of gas will vary all over the United States, and the relative cost between coal gas and water gas will vary at each place.

Mr. SIMS. Well, take the same place then; can you not tell that?

Mr. HUMPHREYS. You can not tell until you examine the particular case for each kind of gas, taking into account the several items in each case. For instance, it will vary as to the candlepower.

Mr. SIMS. But I am referring to the same candlepower.

Mr. HUMPHREYS. You can not get the same candlepower. Water gas, if it is used properly, is the agent employed for raising the candlepower. You make the coal gas, say, of 14 candlepower, and that is as high as the coal will naturally give you; but say you have to furnish a 24-candlepower gas, so you have to make the water gas of such candlepower, and introduce it in such proportion, that in the mixture with the lower candlepower coal gas it will bring the mixed product up to the candlepower required. That is one of the great advantages of water gas, and that is why it has been able to make its way in spite of the larger per se cost in many cases, because of the value of its mixture with coal gas. It brings the candlepower up, and you can put in so much oil as will vary the quality of the gas according to necessity from day to day. In England, when my firm went there to introduce our plant, we could not have thought of driving out the coal gas, and we did not and do not attempt such a thing, but we pointed out that if we could make the two kinds of gas in certain proportions, making coal gas in larger proportion at a constant rate, and making water to enrich and also take care of the fluctuations of demands—that is, the peak of the load—we could produce a mixed gas that would in many cases cost less than either gas if made alone. So you see that it is a pretty complicated question to cover in a hearing of this kind.

Mr. MCGAVIN. Well, suppose we come back to Washington. You are an expert whose opinion we consider of value to this committee, and I assume that you have studied this Washington question somewhat?

Mr. HUMPHREYS. Let me say in advance, before you ask the question, that I have not studied the question in detail. I have not gone into the accounts any more than I can show you by my analysis of these accounts here. In the past seven or eight years I have gone through every one, but—

Mr. MCGAVIN. Taking into consideration the price of coal-gas materials, the price of labor, and everything, can you give this com-

mittee somewhere near a definite idea as to what gas could be manufactured and sold for here?

Mr. HUMPHREYS. Yes, sir; if I made that analysis.

Mr. KELHER. With the same candlepower as is now being served?

Mr. HUMPHREYS. Of course. We have the accounts here before us, and I see nothing in them to lead me to think, from my examination now, that they are incorrect, especially as in the past we have found them correct, as stated to me at the time. And I find nothing in this statement here, which is the gas company's published statement, to indicate that there is anything incorrect in the figures.

Mr. MCGAVIN. Is the cost indicated in that report?

Mr. HUMPHREYS. I would say from my analysis of the figures made last night that my analysis does not agree with that of Mr. Bemis.

The CHAIRMAN. What deduction do you get from them?

Mr. HUMPHREYS. The cost that I make, by their own figures, including the depreciation and deducting residuals as a credit, is 64.36 cents. Mr. Bemis puts it down at about 62 cents and then proceeds to make certain deductions from that amount.

Mr. MCGAVIN. What are these "residuals," as you call them?

Mr. HUMPHREYS. Residuals are the by-products left over after making coal gas. There are no residuals to speak of from the manufacture of water gas, so the returns from residuals seem to be small for such a large company. The residuals, of course, only apply to the amount of coal gas made, and there are no residuals from water gas excepting a small amount of water-gas tar, which is used in firing the boilers. I will give the figures I use so you can check me up, especially as I am in contradiction of Mr. Bemis. The total operating expenses, including depreciation, as given on page 3, are \$1,257,079.56. On the same page, lower down, the amount of gas sold, as shown, is 1,852,689,902 feet. If the amount of expense is divided by the amount sold in thousands—in other words, in round numbers, dividing by 1,852,690, we would have the figure of 67.8 cents; but the way this report is made out that does not show to the credit of the residuals, which is stated on page 1 to be \$63,770.15, which, following the same procedure, will amount to 3.44 cents per thousand. Deducting that from the 67.8 cents, we have as the cost of gas manufactured, delivered, taxes included—which, by the way, amount to 6 cents a thousand alone—as 64.36 cents delivered at the burner.

Now, in this connection I would like to explain one thing. The gas company has started a depreciation and renewal account, which is one of the most complicated things in our business, and which they state to be 7 cents per thousand. There might be a conflict there, and I might as well explain that. So as not to complicate it between the amount made and the amount sold, I will say that they use as a divisor the amount of gas made, which makes 7 cents per thousand, and that 7 cents becomes 7.77 cents when we spread the cost only over the gas sold; but in addition to the amount shown for repairs—here is the item on page 3—the damaged and worn-out meters destroyed amount to \$7,328.25.

Mr. MCGAVIN. Is not that included in this other depreciation account?

Mr. HUMPHREYS. No, sir.

Mr. CARY. Do you know whether the gas company charges 25 cents a month for the use of the meter or not?

Mr. HUMPHREYS. I do not remember whether they do or not, but I do not think they do.

Mr. CARY (addressing Mr. Hart). Do they do that?

Mr. HART. No, sir; no charge.

Mr. MCGAVIN. What is this depreciation account for?

Mr. HUMPHREYS. One moment and I will get to that. The damaged and worn-out meters destroyed are put in as \$7,328.25, which equals 0.4 cent a thousand, and adding to that 7.77, makes 8.17 per thousand feet sold. In my opinion, instead of this being sufficient, it is insufficient to cover repairs plus accruing depreciation; in other words, to provide for future renewals of the plant.

Mr. MCGAVIN. All other depreciation of plant and renewal is included in this depreciation account, is it not?

Mr. HUMPHREYS. Yes; and it is very clearly indicated here as to how they do it, and more so than is generally found in these reports. They write up an amount which they say is 7 cents, and it is correctly 7 cents figured on the gas made, but 7.77 cents figured on the gas sold. They write that up as general depreciation reserve, and then charge against that the actual amount spent from year to year, leaving a balance not so wiped out by the actual cash charges to take care of the accruing depreciation and all reserve from year to year; and the fact is that the actual repairs, according to this last report, were 4.42 cents. And then there was this 0.4 cent for the destroyed meters, making 4.82 cents actual cash expenditure, and the balance is against this accrued depreciation, which I say is not sufficient, although Mr. Bemis says it is. I am familiar with his testimony in many other cases, and as far as I know he has never testified to a figure as low as that. But I want to say that that is a dangerous basis on which to make comparison in this or any other item of cost—that is, cents per thousand—unless we understand the underlying principles. We convert our costs into the form of cents per thousand after the facts have developed as a convenient means of comparison in checking up from day to day and month to month to determine whether we are doing as well as in previous like periods. The depreciation should be figured by analyzing the condition of the plant, to determine what, in our best opinion, is the amount being required to keep it up, having in view not only the physical decay, which we must indicate, but obsolescence and the chance of the plant becoming inadequate, which latter is one of the most serious items of so-called "depreciation" that we have to meet.

Mr. MCGAVIN. Then the cost of the gas to the burner is 64.36 cents plus 7.77 cents plus 0.4 cents, is it not?

Mr. HUMPHREYS. No; the figure 64.36 covers depreciation as far as covered in the company's report, but does not include as much as I believe to be necessary for that item.

Mr. SIMS. Mr. Bemis gave it as 62 cents, I think.

Mr. HUMPHREYS. I can not make it 62 cents, as Mr. Bemis figured it, and I have tried my best.

The CHAIRMAN. Mr. Bemis called our attention to another thing that I would like to have you explain. He stated that there was greater leakage here in Washington than usual. What is your view of that?

Mr. HUMPHREYS. Now, you have gotten into another pretty complicated question, this so-called "leakage." There is no such thing as it is ordinarily reported. It would be a good deal better if we used the term "unaccounted for," which would at once point to the danger of error. There is the actual leakage of gas through the mains and services, and that actual amount of leakage would indicate with a fair degree of accuracy the condition of the mains and services, but before you can determine what the actual leakage is you must be

sure that all your estimating is done correctly, and the man does not live who can do it with absolute accuracy, because it has to be estimated.

Suppose we register our gas at one temperature at the works. It will be registered at different and varying temperatures at the consumers' houses, and no man knows what that average temperature will be, so it can only be estimated. Again, if the city lamps are consuming gas, that gas is not metered. We estimate what we believe each burner will consume, and so average it up, and we try to keep it as accurately in our records as we can. In my company in Buffalo I know perfectly well that the record is not absolutely accurate, because we supply more gas to the city lamps than we receive credit for. But suppose we make all the corrections indicated and then come down to what we say correctly is unaccounted for, we still have to consider this question, namely, how much gas we are going to lose in transit from the works to the consumers by reason of condensation in addition to what we apparently lose by compression due to fall in temperature. Here the quality of the oil affects our results.

Then we come to the final danger. The percentage as shown on the amount of gas sold is no indication unless we have all the facts before us, to take an extreme case, but it is a good one to point out the nature of the source of error. Suppose we had the works built to-day and we were now ready to turn the gas on.

We say we have 16,000 consumers, and we are going to turn the gas on by an electric button at a certain time to-morrow, and no gas is going to be consumed until to-morrow. Some gas would be lost over night, and we would have 100 per cent leakage, so-called, because there would not be any consumed. The only gas which passes out will be the leaked gas, and so the leakage is 100 per cent. In other words, the per cent of leakage depends upon the amount sold, and is therefore no basis for final comparison as to efficiency of operation.

Mr. MCMILLAN. Is the leakage changed by pressure?

Mr. HUMPHREYS. That affects it to a small degree, but the effect of pressure is one, I think, not in accord with the popular idea.

Mr. MCMILLAN. But an increase of pressure leads to an increase of leakage. What is the largest element of cost in producing gas?

Mr. HUMPHREYS. That varies in different places.

Mr. MCMILLAN. Is the coal, labor, machinery, genius, or what?

Mr. HUMPHREYS. Generally the largest element of cost in the manufacture is the gas-making material; coal in the case of coal gas, and oil in the case of water gas.

Mr. MCMILLAN. What material are you now using most of here, or elsewhere, wherever your investigations take you?

Mr. HUMPHREYS. Gas coal for coal gas and oil for water gas.

Mr. MCMILLAN. Which produces the best results from your experience?

Mr. HUMPHREYS. It is difficult to answer that type of a question. What do you mean by "best results?"

Mr. MCMILLAN. In the manufacture of gas.

Mr. HUMPHREYS. I can not answer any such general question, because what would produce the best results in one place might not in another. For instance, in connection with my business in Europe, I have in some few cases advised against the introduction of my own plants, because under peculiar local conditions they would not give the best results in dollars and cents; the local conditions were unfavorable. You can not generalize in that way. Probably in general the best results obtained, if you should take the average of a good many works, would be the combination plant, coal gas to take care of the solid output and water gas to take care of the fluctuating demand and the increased candlepower such as you have in Washington, but which is an extreme case. If you will put the question in some other form I will do my best to answer it.

Mr. MCMILLAN. We want to know the element that will give to the people of Washington the cheapest gas. Is it coal, oil, or what element is it, so far as your experience can indicate it to us?

Mr. HUMPHREYS. I believe that the combination of coal gas and water gas that you have here to-day will give, all things considered, the best results for the least money.

Mr. SIMS. Can the gas company here supply a gas of one candlepower at night when we need it for illuminating purposes, and during the day when they need it for fuel purposes supply a gas with a reduced candlepower?

Mr. HUMPHREYS. No; not practically. They could do it, but of course you would have very unsatisfactory results, because you would have times at night when lean, or low-candlepower, gas would reach the burners, and times in the day when rich, or high-candlepower, gas would reach the burners. In practice the gas of required candlepower could not be separated between day and night. If you had two sets of mains, of course you could send out two qualities, and by manipulating the one plant supply the two characters of gas in that way, but it would be very complicated and expensive, and I think the advantages would not at all equal the disadvantages. But now with the same works and the same mains you would have both rich and poor gas mixed, and the consumers would never know what they were going to get. The burners regulated for one quality would not be regulated for the other.

Mr. SIMS. Then they must supply the highest candlepower for both fuel and light, and when they are using the gas for fuel they are using a much higher quality of gas than is needed.

Mr. CARY. I wanted to make a comparison with the city of Wheeling, W. Va. I think it was in 1890 that they took over the gas plant themselves. Do you remember what the price was before the city took it over, and what the price is now?

Mr. HUMPHREYS. I do not remember, but I did make a very exhaustive examination of that whole question; but I do not remember.

Mr. CARY. I think it was in the neighborhood of \$1.40.

Mr. HUMPHREYS. I should not wonder.

Mr. CARY. And I think now it is down to 80 cents, and they are working on the eight-hour system, too.

Mr. HUMPHREYS. I made an analysis of the Wheeling conditions, a very exhaustive one, about the year 1894, in connection with an attempt to reduce the price of gas in a western city, and this examination, I think, demonstrated beyond all question that at the western city referred to they were doing better at \$1.50, as far as actual management of the plant was concerned, than at Wheeling, charging 75 cents. Wheeling is not including in its cost sufficient for repairs and renewals, and that is the case in many places in the United States under municipal management, and also in England. Take the case of the Richmond municipal plant, to which reference is frequently made. An examination was made of the Richmond plant about a year ago, and it was discovered that they needed about \$705,000 to renew the plant, which should have been charged up in previous years to operating expenses for repairs and renewals, but they have done what all are very

anxious to do—endeavored to make as good a showing as possible. At 75 cents Wheeling makes a loss instead of a profit, if all items of cost are included.

Mr. SIMS. From what you know about the Washington Gas Company's plant, and of the kind of gas they supply, what would be a fair and reasonable price for the gas furnished here, all things considered?

Mr. HUMPHREYS. I find in an analysis of their report as to the conditions under which they operate, which are extremely severe in the way of inspections and so forth, and the fines that they are liable to—

Mr. TAYLOR. Do you mean to say that that is a matter of any importance, that they have to pay out any considerable sum in fines? You mean that they might have to pay them, is not that it?

Mr. HUMPHREYS. They have to pay out quite a sum to avoid them. For instance, they have a most elaborate system, not only of settling their tar, but as is quite unusual with gas companies, they actually filter every drop of it. That can not be done without an expenditure of money.

Mr. MOORE. But suppose you simply put in a fair return to the company upon the investment.

Mr. SIMS. Yes, including the items to be considered, including a return on the capital, that is proper. You know what that is, what it should be, what is a fair price for the manufacture of gas of the quality that is served here?

Mr. HUMPHREYS. I believe that the price of a dollar per thousand with the conditions as you find them here to-day, and the quality of gas delivered, is absolutely a fair price in order to give a fair return on the capital invested, which capital, as we find it here, does not begin to represent even the structural value.

Mr. SIMS. Do you mean simply the \$2,600,000?

Mr. HUMPHREYS. No; I mean \$2,600,000, plus \$2,600,000, plus, say, \$600,000. That is the total capitalization, par value, including stocks and bonds. That, in my opinion, does not begin to represent the structural value of the Washington Gas Company's plant.

The CHAIRMAN. The physical value?

Mr. HUMPHREYS. The physical value. I have not made a critical examination, and I start in with that statement in advance and would not hesitate at all to make it.

Mr. SIMS. Taking it for granted that the company has always paid remunerative dividends on the stock that is out and has paid for the structural cost out of the earnings in addition to the dividends, should they also have dividends on the structural plant?

Mr. HUMPHREYS. My opinion is, though I am not a lawyer—but I am inclined to think that the highest courts in the land will follow the same line—that the earnings that have been put into a plant are the possession of the stockholders, and it does not make any difference whether those earnings have been taken out in dividends and then a certain amount paid back and put back into the plant or not. Those stockholders own that plant.

Mr. SIMS. But that is not what I was asking you. Taking it for granted that the dividends paid have been fair and reasonable upon the stock issued, and then enough has been charged over and above that to build the structure, should that have any effect in fixing the price of gas now?

Mr. HUMPHREYS. I believe so, certainly. I believe that that is money that belongs to the stockholders.

Mr. SIMS. In addition to the dividends already paid? Suppose the stockholders had received the dividends, and then in addition money has been used to enable them to make the improvements and additions, should the price of gas now be fixed with reference to that fact or not; should it be considered?

Mr. HUMPHREYS. I believe it should. I believe that independent of whether it is a fair dividend or not, the thing was permitted at the time, and that money belongs to the stockholders. The earnings were allowed at the time under those conditions, whether they have charged an exorbitant price or not. But that is not my experience generally in the general gas business, and I doubt whether it is the experience here; but it does not make any difference whether it is a question of dividing up dividends or not. Supposing you should say that 10 per cent on the actual investment, or the property value, was a fair dividend, and the stockholders have been receiving 6 per cent. Then they are entitled to that other 4 per cent, even if it has been stated in advance that that shall be the limit. Take, for instance, the New York Consolidated Gas case—one which I have been largely interested in. We proved conclusively that we had not been building a plant out of earnings wrongfully made, but that the dividend had been at a low rate, sometimes as low as 3 per cent, for many years simply on a capitalization not in excess of actual value. Certainly in those cases the money put back in the plant belonged to the stockholders, and it certainly would be correct to say that they owned it; and in addition to that the property as a whole is made safer, because the undivided profits are so tied up for the benefit of the creditor.

Mr. SIMS. Supposing there had been a 10 per cent dividend paid all along, and this additional added value by way of structure had also been met out of the earnings, in increasing the capital, should that amount, whatever it may be, be added to the capital and included in it, and entitled to earnings just as though no dividend had been paid?

Mr. HUMPHREYS. I should say yes, as a question of right. They have a right to certificates of value for those additional earnings apart from the question of the original stock. But before you established the actual rights in the case, you would have to find out whether the certificates of stock as issued represent the actual value of the property. In Washington for many years they did not begin to represent the value in its stock issue. Washington, Cleveland, Cincinnati are three marked cases of companies capitalized away below their actual value. Now, if they paid 10 per cent on those valuations, they are certainly entitled to more.

Mr. SIMS. You are here, in part, to give your opinion as to whether a bill should be passed that will repeal a law authorizing capitalization on actual value. What we want to get at is whether or not that law ought to pass, or be amended, or remain as it is. And that law, as is shown by a suit that has already been instituted, includes franchise value, rights, and good will. Of course it also includes the physical or actual money value of the property as part of it. Now, as to the extent of the franchise, good will, and rights, ought that to be covered by an issue of stock?

Mr. HUMPHREYS. I should say it should. Any of us in business know that a mere physical plant without a business does not begin to be worth what that same plant would be worth with the business attached to it. And a question of estimating the value of a plant as only of the value of the mortar, bricks, and iron is to my mind absolutely absurd.

Mr. CARY. Right on the back of this bill it says: "These prices apply to all gas used by any one consumer, with one meter or with any

number of meters located in one building," and so forth, showing that it is a uniform price all the way through?

Mr. HUMPHREYS. That is what I understand you to say.

On that question of capitalization, Mr. Bemis in his testimony referred to a very marked case at Haverhill, Mass. There is a case where the physical capitalization per thousand feet of gas sold per year is probably not less than \$5 to \$6. Now, what have they got on their books: Sixty-three cents; and why? Because here they have followed the very misleading practice that they have been following in Massachusetts under the direction of a commission, and now are beginning to see the boomerang of blindly charging up a lump sum for depreciation and crediting it to the plant. They meet around the directors' table and some dear old gentleman says: "I think we have made a nice lot of money this year, and we will put up \$30,000 for depreciation." They have done that in Haverhill until they have reduced their book value of plant to 63 cents per thousand although they could not reproduce that plant, without any good will or anything else, for probably less than \$5.

Mr. SIMS. Will you allow me to ask you by whose invitation you have appeared here?

Mr. HUMPHREYS. The gas company's.

Mr. McMILLAN. Upon that question of the pressure of gas in the pipes, what influence has the pressure, if any, upon the meter?

Mr. HUMPHREYS. In what way?

Mr. McMILLAN. In increasing the consumption—in giving evidence of consumption. What injury does it work to the consumer? Please give a good, clear, concise statement on that. A great many people think that there is more injury caused from the pressure than through the increased price of gas.

Mr. HUMPHREYS. It is a very difficult matter to make a clear and concise statement without being technical.

Mr. McMILLAN. But you ought to put yourself on record upon that point.

Mr. HUMPHREYS. I think I did that before you came in.

Mr. CARY. Is not there a law in the District of Columbia at present that the company can not charge over a dollar per thousand for gas?

Mr. SIMS. I think not; I think it is \$1.10.

Mr. HUMPHREYS. Replying to the question asked by Mr. McMILLAN, I will say that if I take an amount of gas and squeeze it, I can get more in a cylinder than if I do not squeeze it. The harder the pressure the more gas can be squeezed in a cylinder.

Mr. McMILLAN. And the more the pressure the more consumed?

Mr. HUMPHREYS. No; I think not. That will not affect the consumption at all.

The CHAIRMAN. I would like to ask you why gas can not be sold as cheap in Georgetown as in Washington?

Mr. HUMPHREYS. Well, it is a more scattered district, and, as a rule, in general, as I have stated—you can not always follow a rule—but the general rule is that it costs more to make gas in smaller communities and distribute it than in the larger cities. There are certain exceptions that sometimes, on analysis, will show that the rule is not followed. But as a rule the smaller place has to charge more for gas than the larger one.

The CHAIRMAN. In that New York case was anything taken into consideration besides the physical value of the gas company?

Mr. HUMPHREYS. Yes.

The CHAIRMAN. What was taken into consideration in that case?

Mr. HUMPHREYS. My recollection is on the last decision, which I confess I have not had time to read—Judge Hough's last decision—that \$20,000,000 was allowed for franchise and good will. I think. But I am not positive about that; it might have been \$12,000,000. Upon second thought, I am confident that the judge stated it was not less than \$12,000,000.

The CHAIRMAN. As you have not had sufficient time to make a thorough investigation here, I would like to ask you if you can and will in the near future tell this committee what gas ought to be and can be sold for in Washington and allow a fair profit to the company, and at both 18 and 23 candlepower? I have been told that we ought to get along with 18 candlepower, and that the people would be just as well satisfied and would then have the benefit of a reduction in price. If that is the case, I would like to know it.

Mr. HUMPHREYS. Very well.

Mr. KELHER. Will you also furnish the committee your idea of the relative cost at tide water per ton of coal in the cities of Washington, New York, and Boston?

Mr. HUMPHREYS. Of course, in the Boston case we will have to take into account the special contract with the Dominion Coal Company, which, I think, has been modified some 5 cents.

Mr. KELHER. What I have in mind is regardless of any contract. What should be the cost of the coal?

Mr. HUMPHREYS. I will put that in as a side memorandum and take the ordinary commercial gas coal as delivered in Boston. Of course it is not for me to say that I will do this; it is for the Washington Gas Company to say whether they will employ me to do it or not, as I am a rather expensive man.

The CHAIRMAN. Mr. Bemis has consented to come back here, the other side has consented to bring him back, and I apprehend that if the committee is going to take your testimony or that of anybody else it ought to have the benefit of at least enough time of the witness to satisfy ourselves as to the value of the testimony.

Mr. HUMPHREYS. I am a little modest about talking about it. I am not the principal, I have to be employed, and I presume that my charge is probably ten times that of Mr. Bemis.

Mr. HART. He will be retained.

Mr. SIMS. Which is the greater cost, coal or oil, in the manufacture of water gas alone?

Mr. HUMPHREYS. The oil is the chief element of cost in the case of water gas.

Mr. SIMS. So that if there is a larger percentage of water gas, the oil cost will become greater relatively if we use the high candlepower; that is, if you reduce the candlepower you reduce the oil cost, and that would reduce the general price?

Mr. HUMPHREYS. That is where the saving comes in.

Mr. SIMS. In answer to a question, in which you said that you are employed by the gas company; I suppose that fact has nothing to do with the answers you have given?

Mr. HUMPHREYS. No; not at all; I hope I am answering the questions absolutely upon what I believe to be true.

Mr. SIMS. I understood you to say a moment ago that if you answered certain questions it would depend upon whether you were employed or not.

Mr. HUMPHREYS. Oh, no. The question the chairman asked me was whether I would come here again to answer certain additional ques-

tions, and that would mean a long investigation and an additional cost to the company.

Mr. McMILLAN. Have you examined this gas plant here?

Mr. HUMPHREYS. In a general way.

Mr. McMILLAN. So far as you know, is this plant an up-to-date plant?

Mr. HUMPHREYS. Yes, sir.

Mr. McMILLAN. That is, all the appliances that are now used in the manufacture of gas are used here, so far as you know?

Mr. HUMPHREYS. So far as I know. Of course we could rebuild the works every year and probably bring in something new.

Mr. McMILLAN. In other words, the works here are really up-to-date works and have been kept so?

Mr. HUMPHREYS. Yes; and admirably managed works. Since I was here a year or two ago they have made some distinct improvements.

Mr. McMILLAN. Do they use modern means to cheapen gas?

Mr. HUMPHREYS. They might possibly cheapen it a little bit.

Mr. McMILLAN. What fuel do they use now for generating gas—coal, oil, or what?

Mr. HUMPHREYS. They use what is known as "gas coal."

Mr. McMILLAN. Soft coal?

Mr. HUMPHREYS. That is a particular kind of bituminous coal adapted to the making of coal gas, because it is of a high volatile character, and with a large amount of gas held in it. That does not necessarily mean that any rich soft coal is good gas coal, because it must be free from excess of sulphur. Then they use an anthracite to make the water gas. Water gas has to be made by just the opposite kind of carbon from coal gas. It must be made from coal that is free from bituminous matter, so they are obliged to use both kinds of coal. They also use the coke from the coal-gas works in making their water gas.

Mr. McMILLAN. And you consider that a modern means?

Mr. HUMPHREYS. Yes; and on top of that they use oil.

The CHAIRMAN. I heard last night that gas was sold in Cincinnati for 50 cents a thousand, and I would like to ask you why it can not be sold as cheap in Washington?

Mr. HUMPHREYS. But that is not true; gas is sold at 50 cents in Cincinnati, yes, under certain arrangements as to what it is to be used for. I figured up last night from the returns, and I made up my mind that, as close as we could figure it from the reports, the average price is 66½ cents in Cincinnati.

Mr. HART. Will you allow me to ask what the candlepower is in Cincinnati?

Mr. HUMPHREYS. The candlepower is 17.

The CHAIRMAN. You say that it is sold in Cincinnati for about 66 cents?

Mr. HUMPHREYS. It averages about 66½ cents.

The CHAIRMAN. There is a difference of candlepower, you say, of 5—between 17 and 23. If we allowed for that difference, would it be the same price here?

Mr. HUMPHREYS. No.

The CHAIRMAN. Why?

Mr. HUMPHREYS. Because Cincinnati is one of the cheapest places in the United States for the delivery of gas coal. It has always been one of the cheapest places for gas coal in the United States; and it also has been always a very low candlepower city.

Mr. SIMS. Would it be cheaper with water gas?

Mr. HUMPHREYS. No; they never have used much water gas because of their ability to make a cheap coal gas due to the particular materials at hand, just as they do in England. I put in a plant for water gas in Cincinnati in 1892, but they have never used it regularly, just holding it in reserve for emergencies.

Mr. SIMS. You state that the present price of a dollar per thousand, in view of the conditions prevailing here, you believe to be a reasonable and fair price?

Mr. HUMPHREYS. I believe it to be so.

Mr. SIMS. Supposing these conditions continue, but the city grows larger and the population increases, would that not give a greater profit?

Mr. HUMPHREYS. Yes.

Mr. SIMS. Then what would you suggest, if anything, in the line of a sliding scale, for instance, a sliding scale beginning with a dollar as now, and in two or three years bring it down—

Mr. HUMPHREYS. I should not want to answer that question off-hand, because the conditions vary so with increased population. I was surprised on comparing New York with London to find that the increase there from a sale per capita was about six thousand up to ninety-two hundred per capita, and it had not produced a decrease of cost, because the actual cost of distribution in New York had increased in spite of the large increase per capita and in spite of having probably the largest sale per mile of mains in the United States.

Mr. SIMS. I am only assuming that the present cost of materials will be maintained. The price might go up or down?

Mr. HUMPHREYS. I am not referring to that so much as the congestion in the streets. That has been the great trouble in New York—the tremendous cost of operating in the streets and repairing them.

Mr. SIMS. But that will never exist here, in all probability.

Mr. HUMPHREYS. To no such extent; no, sir; I should not imagine so. You have broader streets for one thing.

Adjourned at 11.50 a. m.

COMMUNICATION FROM MR. HUMPHREYS.

In a letter addressed to the committee, under date of April 21, 1908, Mr. Humphreys, in referring to his statement, says:

"There is one correction I would like to make, but hardly feel warranted in doing so, because it is based upon information obtained since I returned to New York. You will remember that they questioned my statement that coal was dearer in Detroit than in Washington. I have made the statement that I felt quite sure that I was correct. If there is any way to have it so, I would like to have it appear that this statement is confirmed. If you think it is proper to put it in as parenthesis, I would be very glad to have you do so.

"I find that, under ordinary circumstances, there is a difference of about 50 cents in favor of Detroit."

Mr. MANN. Mr. Speaker, I would like to offer an amendment covering the matter of a discount for payment of the bill in cash within a certain time in this form, if the gentleman will yield for that purpose: After the word "feet," in line 10, add the word "net," so that it will read:

Ninety cents per thousand cubic feet net: *Provided*, That 10 cents per thousand cubic feet additional may be collected on any bill which is not

paid within twenty days from the time of mailing the bill to the consumer.

The SPEAKER pro tempore. The Chair will state to the gentleman from Illinois that there is a motion pending before the House to recommit the bill.

Mr. MANN. I was not going to offer the amendment; I was going to ask if the gentleman from Michigan would yield to me for the purpose of offering that amendment.

The SPEAKER pro tempore. The question is on the motion of the gentleman from New York, that the bill be recommitted to the committee.

The question was taken; and on a division (demanded by Mr. McMILLAN) there were—ayes 4, noes 61.

So the motion to recommit was rejected.

Mr. McMILLAN. Mr. Speaker, I wish you would state the issue; these gentlemen do not know what they are voting upon.

The question was taken, and the amendment was rejected.

The SPEAKER pro tempore. The question now is upon the committee amendment.

Mr. MANN. This is not a committee amendment. Will the gentleman from Michigan yield to me for the purpose of offering an amendment?

The SPEAKER pro tempore. The amendment of the gentleman from Illinois has not been submitted.

Mr. MANN. I have no authority to offer an amendment unless the gentleman yields to me for that purpose.

The SPEAKER pro tempore. Does the gentleman from Michigan yield to the gentleman from Illinois?

Mr. SMITH of Michigan. No, Mr. Speaker; I do not feel like receiving the amendment and I ask for a vote.

Mr. FITZGERALD. Mr. Speaker, I desire to offer an amendment to the committee amendment—

Mr. CAMPBELL. There is no committee amendment.

Mr. FITZGERALD (continuing). To strike out the word "ninety" and insert the word "eighty-five," line 9.

The SPEAKER pro tempore. The Clerk will report the amendment offered by the gentleman from New York.

The Clerk read as follows:

Strike out the proposed amendment and insert in lieu thereof "eighty-five."

The question was taken, and the Chair announced he was in doubt.

The House divided; and there were—ayes 61, noes 33.

Accordingly the amendment was agreed to.

The bill as amended was ordered to be engrossed and read the third time, was read the third time, and passed.

On motion of Mr. MADDEN, a motion to reconsider the vote was laid on the table.

AMENDMENT OF EMPLOYMENT AGENCY ACT.

Mr. SMITH of Michigan. Mr. Speaker, I desire to call up the bill H. R. 20247.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 20247) to amend section 8 of an act entitled "An act to regulate the keeping of employment agencies in the District of Columbia where fees are charged for procuring employment or situations," approved June 19, 1906.

Be it enacted, etc., That section 8 of an act entitled "An act to regulate the keeping of employment agencies in the District of Columbia where fees are charged for procuring employment or situations," approved June 19, 1906, be amended to read as follows:

"Sec. 8. That the fees charged for the employment of agricultural hands, coachmen, grooms, hostlers, seamstresses, cooks, waiters, waitresses, scrubwomen, nurses (except professional nurses), chambermaids, maids of all work, domestics, servants, or other laborers (except seamen), or for the purpose of procuring or giving information concerning such person for or to employers, shall be as follows:

"Employment agents or agencies shall be entitled to receive in advance from an employer, for male or female employees, \$2 each: *Provided*, That such fee shall entitle said employer to at least thirty days' service from said male or female employee, or from other employees at the same rate of wages to be furnished by said employment agent or agencies.

"Employment agents or agencies shall be entitled to receive in advance from the applicant for work or employment, either male or female, \$1 each, one-half of which is to be returned on demand if such applicant is not secured a fair opportunity of employment within thirty days after the receipt of said original fee of \$1: *Provided*, That where the male or female employee receives employment at a rate of wages of \$25 per month or more, said employment agent or agency shall, on obtaining employment for such employee, receive an additional \$1 from said employee: *Provided*, That the whole fee and any sums paid by the applicant for transportation in going to and returning from such employer shall be refunded within four days of demand, if no employment of the kind applied for was vacant at the place to which the applicant was directed: *And provided further*, That it shall be unlawful for any employment agent or agency to receive more than the fees set forth in this act in the business aforesaid.

"It shall be the duty of such licensed person to give to every applicant for employment from whom a fee shall be received a receipt in which shall be stated the name of said applicant, the date and amount of the fee, and the purpose for which it was paid, and to every appli-

cant for help a receipt stating the name and address of said applicant, the date and amount of the fee, and the kind of help to be provided. Every such receipt, excepting only those given by theatrical and teachers' agencies and those procuring technical, clerical, sales, and executive positions for men only, shall have printed on the back thereof a copy of this section in the English language. No such licensed person shall divide fees with contractors or their agents or other employers or anyone in their employ to whom applicants for employment are sent. Every such licensed person shall give to each applicant for employment a card or printed paper containing the name of the applicant for employment, name and address of such employment agency, and the written name and address of the person to whom the applicant is sent for employment. Every such licensed person shall post in a conspicuous place in each room of such agency a plain and legible copy of this act, which shall be printed in large type."

The committee amendment was read, as follows:

In page 2, line 7, after the word "employees," insert the words "at the same rate of wages."

Mr. SMITH of Michigan. Mr. Speaker, I yield to the gentleman from Ohio [Mr. TAYLOR].

Mr. TAYLOR of Ohio. Mr. Speaker, the object of this amendment, and the only amendment to the existing law, is to increase the fees paid by persons employing help from \$1 to \$2, and the reason for that is that in the law which was passed a little over two years ago, providing for the regulation of employment agencies and the fees to be charged, a dollar was allowed to be paid by the employer and a dollar by the servant. That was simply an experiment. We had no data to go on, and after two years of trial and after a careful investigation of more than a dozen respectable and first-class agencies we came to the conclusion, justifiably, I believe, that the fee was too small to maintain the high-class and proper agencies that we are trying to keep up in this District.

Members of the committee gave personal investigation of more than a dozen places, and hearings were given to more than a dozen persons interested in employment agencies, also to certain ladies of the District who are interested in this line of work. This was the recommendation of all of those people. As an additional consideration for this extra dollar, the committee has inserted a proviso that the employer, after paying his \$2, shall have for thirty days a chance to test out a servant and get a proper servant without additional charge. That is a very valuable suggestion, and we hope it will be enacted into law with this amendment. The only other amendment is where the salary of a servant is \$25, from \$25 up, which is more than the average salary, the employer of the agency may receive an additional dollar. Up to \$25 they shall only receive a dollar, as now provided in the law in existence. These are the only amendments, and I have given the reasons for the amendments.

Mr. CAULFIELD. What are the customary fees charged in places throughout the country?

Mr. TAYLOR of Ohio. As near as I can get at it, in the larger cities it is on a percentage basis, which works out a much larger fee than anything paid in Washington. In some cities it is scaled according to the salary.

Mr. CAULFIELD. How long does this percentage continue?

Mr. TAYLOR of Ohio. Just one payment.

Mr. CAULFIELD. Is a license required of these people under this law?

Mr. TAYLOR of Ohio. Yes; a license is provided for. Now, if there are no further questions, I ask for a vote.

The SPEAKER. Without objection, the committee amendment will be considered as adopted.

There was no objection.

The bill as amended was ordered to be engrossed and read a third time, was read a third, and passed.

On motion of Mr. TAYLOR of Ohio, the motion to reconsider the vote by which the bill as amended was passed was laid on the table.

INFERIOR COURT JUSTICE OF THE PEACE.

Mr. SMITH of Michigan. Mr. Speaker, I desire to call up the bill S. 6359, entitled "An act to change the name and jurisdiction of the inferior court of justice of the peace of the District of Columbia."

The SPEAKER. The Clerk will report the bill.

The Clerk proceeded with the reading of the bill.

During the reading—

Mr. UNDERWOOD. I desire to make a point of order that this bill ought to be on the Union Calendar. It is the proper place to consider it, I think; and it is now getting late, too. I understand the bill creates offices and changes offices, and necessarily ought to go to the Union Calendar; also, it fixes the compensation.

Mr. MANN. It fixes a compensation or rental at \$1,800 a year.

Mr. MACON. And fixes salary, too.

Mr. CAMPBELL. But it does not provide for any appropriation.

The SPEAKER. If it makes a charge upon the Treasury of the United States, it is surely subject to the point of order. The Chair is causing the bill to be examined to see whether it makes a charge upon the District revenues alone or upon the Treasury itself.

Mr. MANN. It provides for a rental of \$1,800 a year, and that itself would put it upon the Union Calendar.

The SPEAKER. The gentleman will point out the provision.

Mr. FITZGERALD. Under the organic act the judges are paid half from the revenues of the District of Columbia and half from the Treasury of the United States.

The SPEAKER. The Chair is trying to ascertain, and therefore asks the gentleman whether or no, under the terms of this act, the salaries and expenditures referred to in the act are payable from the District revenues or from the Treasury of the United States.

Mr. FITZGERALD. The act does not say, and unless the act specifically directs that they shall be paid out of the District revenues, they are paid out of the Treasury of the United States.

Mr. SMITH of Michigan. On page 4, beginning with the fourteenth line, the bill reads:

The said court shall have power to employ a clerk at an annual salary of \$1,500; and an assistant clerk at an annual salary of \$1,000, payable monthly by the District of Columbia, which clerks shall hold office at the pleasure of the court.

Mr. CAMPBELL. At this time the court collects fees. This money is turned into the Treasury, and out of that money the salaries and rentals are paid, and there is still a surplus left that goes into the Treasury. The salaries of the six justices are reduced from \$3,000 to \$2,500, and the salary of the clerks will average about what the reduction amounts to. Also, we pay rent now for the buildings that are occupied by the six justices. Our proposition is to put them all in one building instead of keeping them in six.

Mr. MADDEN. Will the gentleman yield for a question?

Mr. CAMPBELL. Yes.

Mr. MANN. On page 2, line 16, the bill says:

Such municipal court shall sit for the trial of causes in one building, to be designated by the Commissioners of the District of Columbia, to be rented by said District of Columbia at a rental not to exceed \$1,800 per annum.

Mr. CAMPBELL. And the aggregate rent we pay now amounts to more than that.

Mr. MANN. That is all the same. Here is an express provision not now authorized by law, providing for the rental of a building in the District of Columbia, and no provision being made as to how it shall be paid; and yet, by the organic act, one-half is paid out of the National Treasury and half out of the District treasury.

Mr. MADDEN. I would like to ask the gentleman from Kansas if it is not a fact that all the men appointed to these municipal judgeships will have police powers?

Mr. CAMPBELL. Yes; and they have now.

Mr. MADDEN. Is it a fact that all the police court fines are covered into the police insurance fund?

Mr. CAMPBELL. No; when they sit as police judges they go into the police court and sit there and merely try causes. The clerk of the police court has charge, rather than the clerk of the municipal court.

Mr. UNDERWOOD. Mr. Speaker, if I can have the attention of the chairman of the committee a minute. The reasons I raised the point of order are these: I do not know that I am opposed to the bill, but it is a very important bill, the hour is late, but few Members are here, and I think it is too late to consider this bill at this time. Manifestly there is not a quorum here, and I ask the gentleman, to save time, to withdraw the bill for the present. Unquestionably he can not go along with it.

Mr. SMITH of Michigan. Mr. Speaker, I ask unanimous consent that the District Committee may have one hour to-morrow for District business. We have three or four more bills. This committee did not have a regular day from the 23d day of March last until the adjournment on the 30th of May.

The SPEAKER. Pending the point of order, the gentleman from Michigan asks unanimous consent that the Committee on the District of Columbia may have one hour of to-morrow's session as of to-day. Is there objection to the request? [After a pause.] The Chair hears none.

The Chair desires to state that the gentleman from Illinois calls attention to line 16, page 2:

Said municipal court shall sit for the trial of causes in one building, to be designated by the Commissioners of the District of Columbia, to be rented by said District of Columbia, at a rental not to exceed \$1,800 per annum.

The line of decisions is that it must appear from the face of the bill and not as a matter of argument or speculation that the bill makes a charge upon the Treasury. The Chair will take time to read the bill through very carefully, if it is desired. The Chair can not decide the point of order without a careful examination of the bill.

Mr. SMITH of Michigan. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The gentleman moves that the House do now adjourn. Pending that, the Chair lays before the House the following request from the Senate for the return of a bill.

The Clerk read as follows:

In the Senate of the United States, December 14, 1908.

Resolved, That the Secretary of the Senate be directed to request the House of Representatives to return to the Senate the bill (H. R. 16743) for the removal of restrictions of alienation of lands of allottees in the Quapaw Agency, Okla., and the sale of all tribal lands, school, agency, or other buildings of any of the reservations within the jurisdiction of said agency, and for other purposes.

The SPEAKER. Without objection, the bill will be returned. There was no objection.

ENROLLED JOINT RESOLUTION SIGNED.

The SPEAKER announced his signature to enrolled joint resolution of the following title:

S. R. 78. Joint resolution establishing the boundary line between the States of Colorado and Oklahoma and Territory of New Mexico.

LEAVE OF ABSENCE.

Mr. MARSHALL, by unanimous consent, obtained leave of absence, indefinitely, on account of sickness.

WITHDRAWAL OF PAPERS.

Mr. WEEMS, by unanimous consent, obtained leave to withdraw from the files of the House, without leaving copies, the papers in the case of Andrew Crowl (H. R. 18170), Fifty-ninth Congress, no adverse report having been made thereon.

The motion to adjourn was then agreed to; and accordingly (at 5 o'clock and 9 minutes p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Interior, transmitting data in relation to railroads in Alaska under the act of May 14, 1898—to the Committee on the Territories and ordered to be printed with illustrations.

A letter from the Postmaster-General, transmitting papers on the claim of Cadmus Crabill—to the Committee on Claims and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of State submitting explanations in connection with estimates of appropriation for foreign intercourse—to the Committee on Foreign Affairs and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a response to the inquiry of the House in relation to admission of manganiferous iron ore at ports of entry—to the Committee on Ways and Means and ordered to print manuscript, but not the book.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of the Interior submitting an estimate of appropriation for irrigation on Indian reservations—to the Committee on Indian Affairs and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Postmaster-General submitting an estimate of reappropriation for street railway tracks at the Baltimore post-office—to the Committee on Appropriations and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of Commerce and Labor submitting an estimate of appropriation for taking the Thirteenth Decennial Census—to the Committee on Appropriations and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of Commerce and Labor submitting an estimate of appropriation for the establishment of a fish-cultural station in the upper Mississippi Valley—to the Committee on Appropriations and ordered to be printed.

A letter from the Secretary of the Interior, transmitting a petition of the Sac and Fox Indians of Oklahoma, praying for the payment of certain trust funds—to the Committee on Indian Affairs and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Thomas Williams against The United States—to the Committee on War Claims and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of J. P. Matthews, administrator of estate of Nathan Gradick, against The United States—to the Committee on War Claims and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of L. H. Kelly, administrator of estate of John McH. Kelly and Allie V. Kelly, against The United States—to the Committee on War Claims and ordered to be printed.

A letter from the Secretary of the Interior, proposing legislation authorizing the construction of road and bridges in Warm Springs Reservation, Oreg.—to the Committee on Indian Affairs and ordered to be printed.

A letter from the Secretary of the Interior, transmitting, with draft of a bill, recommendations as to construction of a bridge over Little Colorado River, abutting on Navajo Reservation—to the Committee on Indian Affairs and ordered to be printed.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 22361) granting an increase of pension to John Marshall—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 22362) granting an increase of pension to John C. Cribbs—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 22363) granting an increase of pension to George D. Hamm—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 22364) granting an increase of pension to John Lukehart—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 22365) granting an increase of pension to William E. Weckerley—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 23279) granting an increase of pension to Samuel F. Dyer—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 23357) granting a pension to Ellen M. Brennan—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 23358) granting a pension to Harry Menovitz—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 23379) granting a pension to Ruthey J. Robinson—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 23400) granting a pension to Jacob H. Mose—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 23401) granting a pension to Charles E. Welker—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 23404) granting an increase of pension to Mary Gorman—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 22963) granting an increase of pension to Anna Irvine—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. DOUGLAS: A bill (H. R. 23971) to amend section 2 of an act approved June 27, 1890, entitled "An act granting pensions," etc.—to the Committee on Invalid Pensions.

Also, a bill (H. R. 23972) to amend section 4708, laws of the United States, granting pensions, etc.—to the Committee on Invalid Pensions.

By Mr. CARLIN: A bill (H. R. 23973) for the relief of pensioners of the Metropolitan police fund—to the Committee on the District of Columbia.

By Mr. CRUMPACKER: A bill (H. R. 23974) providing for a light-ship in Lake Michigan off the harbor at Gary, Ind.—to the Committee on Interstate and Foreign Commerce.

By Mr. FOCHT: A bill (H. R. 23975) to amend an act entitled "An act to amend an act entitled 'An act amending section 4708 of the Revised Statutes of the United States in relation to pensions to remarried widows,'" approved February 28, 1903—to the Committee on Invalid Pensions.

By Mr. McKINNEY (by request): A bill (H. R. 23976) to correct the mistakes in the location and construction of the Illinois and Mississippi Canal, the lock and dams within and near the village of Milan, county of Rock Island, and State of Illinois—to the Committee on Rivers and Harbors.

By Mr. MAYNARD: A bill (H. R. 23977) to provide for acquisition by condemnation of lands at Cape Henry, Va., for the purpose of fortification and coast defense—to the Committee on Appropriations.

By Mr. LAFFAN: A bill (H. R. 23978) to authorize and direct the Secretary of War to purchase certain lands on the battlefield of Gettysburg, and making an appropriation therefor—to the Committee on Appropriations.

By Mr. THOMAS of North Carolina: A bill (H. R. 23979) authorizing the Secretary of War to expend moneys already appropriated for Beaufort Harbor, North Carolina, for certain improvements in said harbor and for an additional appropriation of \$18,000 for said harbor—to the Committee on Rivers and Harbors.

By Mr. HIGGINS: A bill (H. R. 23980) to provide for a survey of the Mystic River, Connecticut—to the Committee on Rivers and Harbors.

By Mr. LOVERING: A bill (H. R. 23981) to amend the act to increase the limit of cost of certain public buildings, etc., approved June 30, 1906, and the act to increase the limit of cost of certain public buildings, etc., approved May 30, 1908—to the Committee on Public Buildings and Grounds.

By Mr. LOUDENSLAGER: A bill (H. R. 23982) for the erection of a public building at the city of Woodbury, in the State of New Jersey—to the Committee on Public Buildings and Grounds.

By Mr. WILEY: A bill (H. R. 24134) directing the fixing of a standard of cotton classification in the transaction of cotton business by the exchanges in the United States—to the Committee on Agriculture.

By Mr. BENNET of New York: Resolution (H. Res. 455) to amend the rules as to the admission of reporters to the floor of the House of Representatives—to the Committee on Rules.

By Mr. MOORE of Pennsylvania: Joint resolution (H. J. Res. 203) to authorize the Secretary of State to invite the permanent International Association of Navigation Congresses to hold in the United States, in the year 1911, the Twelfth International Congress of Navigation—to the Committee on Foreign Affairs.

By Mr. WILEY: Joint resolution (H. J. Res. 204) authorizing and directing the Secretary of War to cause an examination and survey to be made of an inland waterway or canal from Mobile Bay to Perdido Bay and from the latter bay to Escambia Bay of such width and depth as will be sufficient to permit of the navigation of such vessels as ordinarily navigate said bays—to the Committee on Rivers and Harbors.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 23983) granting a pension to Thomas M. Smith—to the Committee on Invalid Pensions.

By Mr. ALEXANDER of Missouri: A bill (H. R. 23984) granting a pension to Lucy R. Woodward—to the Committee on Invalid Pensions.

Also, a bill (H. R. 23985) granting a pension to Sabina Pierce—to the Committee on Invalid Pensions.

Also, a bill (H. R. 23986) granting an increase of pension to Alexander M. Rainey—to the Committee on Invalid Pensions.

By Mr. ANSBERRY: A bill (H. R. 23987) granting an increase of pension to Mathias Hicks—to the Committee on Invalid Pensions.

Also, a bill (H. R. 23988) granting an increase of pension to John Love—to the Committee on Invalid Pensions.

Also, a bill (H. R. 23989) granting a pension to Amanda S. Kline—to the Committee on Invalid Pensions.

By Mr. ANTHONY: A bill (H. R. 23990) granting an increase of pension to Rollin B. Shower—to the Committee on Invalid Pensions.

Also, a bill (H. R. 23991) granting an increase of pension to George Abrams—to the Committee on Invalid Pensions.

Also, a bill (H. R. 23992) granting an increase of pension to William R. Vanhoozer—to the Committee on Invalid Pensions.

Also, a bill (H. R. 23993) granting an increase of pension to Michael Knight—to the Committee on Invalid Pensions.

By Mr. BARTLETT of Georgia: A bill (H. R. 23994) for the relief of J. M. King—to the Committee on Claims.

By Mr. BROWNLOW: A bill (H. R. 23995) granting a pension to Oscar C. Oliver—to the Committee on Invalid Pensions.

Also, a bill (H. R. 23996) granting a pension to Elizabeth L. Bayliss—to the Committee on Invalid Pensions.

Also, a bill (H. R. 23997) granting an increase of pension to Enoch Carter—to the Committee on Invalid Pensions.

By Mr. BUTLER: A bill (H. R. 23998) granting a pension to Jane Elvin—to the Committee on Invalid Pensions.

By Mr. CALE: A bill (H. R. 23999) granting an increase of pension to William H. Chapin—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24000) granting an increase of pension to Adelbert Jones—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24001) granting an increase of pension to Byron T. Gibson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24002) granting an increase of pension to Albert F. Pierce—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24003) granting an increase of pension to Charles E. Hinman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24004) granting an increase of pension to William H. Meade—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24005) granting an increase of pension to James A. Benjamin—to the Committee on Invalid Pensions.

By Mr. CANNON: A bill (H. R. 24006) granting an increase of pension to Josiah D. Mater—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24007) granting an increase of pension to William A. Rose—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24008) granting an increase of pension to Lewis Hannah—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24009) granting a pension to Izora O. Cook—to the Committee on Invalid Pensions.

By Mr. CHANEY: A bill (H. R. 24010) granting an increase of pension to Edward E. Thorn—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24011) granting an increase of pension to George W. Bennett—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24012) granting an increase of pension to David Jarvis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24013) granting an increase of pension to James A. Medaris—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24014) granting an increase of pension to John D. Bray—to the Committee on Pensions.

Also, a bill (H. R. 24015) granting an increase of pension to Louis R. Edmunds—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24016) granting an increase of pension to Silas R. Houston—to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 24017) granting an increase of pension to John Rees—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24018) granting an increase of pension to Chamness S. Burks—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24019) granting an increase of pension to Marcus H. Ingram—to the Committee on Invalid Pensions.

By Mr. CUSHMAN: A bill (H. R. 24020) granting a pension to Esther M. Stanley—to the Committee on Invalid Pensions.

By Mr. DIXON: A bill (H. R. 24021) granting an increase of pension to Thomas A. Pearce—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24022) granting an increase of pension to Sylvester Justis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24023) granting an increase of pension to Julius Lane—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24024) granting an increase of pension to Jasper Ross—to the Committee on Invalid Pensions.

By Mr. DOUGLAS: A bill (H. R. 24025) granting an increase of pension to Henry Duddleson—to the Committee on Invalid Pensions.

By Mr. DWIGHT: A bill (H. R. 24026) granting an increase of pension to Hiram Cornish—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24027) granting an increase of pension to Nathaniel J. Robinson—to the Committee on Invalid Pensions.

By Mr. FITZGERALD: A bill (H. R. 24028) granting an increase of pension to James E. Reilly—to the Committee on Invalid Pensions.

By Mr. FOCHT: A bill (H. R. 24029) for the relief of Alexander Everhart—to the Committee on Military Affairs.

By Mr. FOSTER of Illinois: A bill (H. R. 24030) granting an increase of pension to Joseph Boles—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24031) granting an increase of pension to William H. Williamson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24032) granting an increase of pension to Andrew Watts—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24033) granting an increase of pension to Daniel W. Myers—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24034) granting an increase of pension to Jonathan Huston—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24035) granting an increase of pension to John G. Dale—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24036) granting an increase of pension to George T. Clausen—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24037) granting an increase of pension to Christopher C. Estes—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24038) granting an increase of pension to B. M. Laws—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24039) granting a pension to Lydia McKoin—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24040) granting a pension to W. J. Collins—to the Committee on Pensions.

Also, a bill (H. R. 24041) granting a pension to Clifford Sweeten—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24042) granting a pension to Oscar Sweeten—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24043) granting a pension to Viola Shaw—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24044) granting a pension to Elizabeth Girard—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24045) granting a pension to Sarah Highsmith—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24046) granting a pension to B. F. Thompson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24047) granting a pension to Richard M. Goddy—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24048) granting a pension to Prudence Simmons—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24049) to remove the charge of desertion from the record of George W. Terrell—to the Committee on Military Affairs.

By Mr. FOSTER of Vermont: A bill (H. R. 24050) granting an increase of pension to C. C. Sabin—to the Committee on Invalid Pensions.

By Mr. FULLER: A bill (H. R. 24051) granting an increase of pension to William H. Young—to the Committee on Invalid Pensions.

By Mr. GILHAMS: A bill (H. R. 24052) granting an increase of pension to Alvin E. Nishwitz—to the Committee on Invalid Pensions.

By Mr. HIGGINS: A bill (H. R. 24053) granting an increase of pension to Oscar E. Hildebrand—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24054) granting an increase of pension to Benjamin G. Barber—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24055) granting an increase of pension to George E. Leonard—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24056) granting an increase of pension to Benajah E. Smith—to the Committee on Invalid Pensions.

By Mr. HOUSTON: A bill (H. R. 24057) for the relief of James R. House—to the Committee on War Claims.

By Mr. HUGHES of New Jersey: A bill (H. R. 24058) granting an increase of pension to James Skrine—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24059) granting an increase of pension to William H. Reinhart—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24060) granting a pension to William Haley—to the Committee on Pensions.

Also, a bill (H. R. 24061) granting a pension to George Ihnath—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24062) granting a pension to Michael J. Tully—to the Committee on Pensions.

Also, a bill (H. R. 24063) granting a pension to Howard Farrell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24064) granting a pension to Marie Fraser—to the Committee on Pensions.

By Mr. HUGHES of West Virginia: A bill (H. R. 24065) for the relief of the legal representatives of Jacob W. Staley, deceased—to the Committee on War Claims.

By Mr. HULL of Tennessee: A bill (H. R. 24066) for the relief of George A. Vandever—to the Committee on Military Affairs.

By Mr. JENKINS: A bill (H. R. 24067) granting a pension to Peter Andress—to the Committee on Invalid Pensions.

By Mr. KEIFER: A bill (H. R. 24068) granting an increase of pension to George W. Wilson—to the Committee on Invalid Pensions.

By Mr. KNAPP: A bill (H. R. 24069) for the relief of John T. Mott—to the Committee on Claims.

Also, a bill (H. R. 24070) for the relief of William D. Allen—to the Committee on Claims.

By Mr. KNOFF: A bill (H. R. 24071) granting an increase of pension to Christian Wendling—to the Committee on Invalid Pensions.

By Mr. KÜSTERMANN: A bill (H. R. 24072) granting an increase of pension to George William Northedge—to the Committee on Invalid Pensions.

By Mr. LAFEAN: A bill (H. R. 24073) granting an increase of pension to Adam F. Becker—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24074) granting an increase of pension to Charles G. Miller—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24075) granting a pension to Annie M. Tinsley—to the Committee on Invalid Pensions.

By Mr. LOUDENSLAGER: A bill (H. R. 24076) granting an increase of pension to Jacob L. Parker—to the Committee on Invalid Pensions.

By Mr. McCALL: A bill (H. R. 24077) granting a pension to Lucy A. Deering—to the Committee on Invalid Pensions.

By Mr. McGAVIN: A bill (H. R. 24078) granting an increase of pension to James Linnett—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24079) granting an increase of pension to Orlando Van Buren—to the Committee on Invalid Pensions.

By Mr. McHENRY: A bill (H. R. 24080) granting an increase of pension to Elwood W. Coleman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24081) granting an increase of pension to Andreas Hirlinger—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24082) granting an increase of pension to James W. Kearns—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24083) granting an increase of pension to Nathan Kaseman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24084) granting an increase of pension to Henry Kearns, alias Henry Wilson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24085) granting an increase of pension to Samuel Letteer—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24086) granting an increase of pension to William H. Small—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24087) granting a pension to James F. Adams—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24088) granting a pension to Edwin R. Warburton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24089) granting a pension to Joseph Yeager—to the Committee on Invalid Pensions.

By Mr. McKINLEY of Illinois: A bill (H. R. 24090) granting a pension to John Webb—to the Committee on Pensions.

By Mr. McKINNEY: A bill (H. R. 24091) granting an increase of pension to Milton L. Tompkins—to the Committee on Invalid Pensions.

By Mr. MADDEN: A bill (H. R. 24092) to remove the charge of desertion from the record of William Birk—to the Committee on Military Affairs.

By Mr. MAYNARD: A bill (H. R. 24093) granting an increase of pension to Martha L. De Ryder—to the Committee on Naval Affairs.

By Mr. MOON of Pennsylvania: A bill (H. R. 24094) granting a pension to Ellen Murphy—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24095) granting an increase of pension to Joseph S. Lechler—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24096) granting a pension to James B. Coppuck—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24097) granting a pension to Mary Sullivan—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24098) granting a pension to Emma Wagner—to the Committee on Invalid Pensions.

By Mr. MOON of Tennessee: A bill (H. R. 24099) for the relief of the estate of Aaron Murdock, deceased—to the Committee on War Claims.

Also, a bill (H. R. 24100) for the relief of the estate of Patrick Henry Watkins, deceased—to the Committee on War Claims.

Also, a bill (H. R. 24101) for the relief of the estate of William Roberts, deceased—to the Committee on War Claims.

Also, a bill (H. R. 24102) for the relief of James B. Hoge—to the Committee on War Claims.

Also, a bill (H. R. 24103) for the relief of the heirs of Thomas Penny, deceased—to the Committee on War Claims.

By Mr. OLCOTT: A bill (H. R. 24104) authorizing the Secretary of the Treasury to adjust and settle the account of James M. Willbur with the United States—to the Committee on Claims.

By Mr. RANDELL of Louisiana: A bill (H. R. 24105) for the relief of the estate of T. J. Semmes, deceased—to the Committee on War Claims.

By Mr. SHERMAN: A bill (H. R. 24106) granting a pension to Ann Hickox—to the Committee on Invalid Pensions.

By Mr. SLAYDEN: A bill (H. R. 24107) for the relief of Davis W. Hatch—to the Committee on War Claims.

By Mr. SMITH of California: A bill (H. R. 24108) granting an increase of pension to Abram Storms—to the Committee on Invalid Pensions.

By Mr. SNAPP: A bill (H. R. 24109) granting a pension to Mary Hanna—to the Committee on Invalid Pensions.

By Mr. SPARKMAN: A bill (H. R. 24110) granting a pension to Bennett Whidden—to the Committee on Pensions.

Also, a bill (H. R. 24111) granting an increase of pension to Myrtle L. Hart—to the Committee on Invalid Pensions.

By Mr. SPERRY: A bill (H. R. 24112) granting an increase of pension to David S. Dort—to the Committee on Invalid Pensions.

By Mr. THISTLEWOOD: A bill (H. R. 24113) granting an increase of pension to Henry J. Fuller—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24114) granting an increase of pension to James A. Woodson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24115) granting an increase of pension to Mary B. Jenks—to the Committee on Invalid Pensions.

By Mr. THOMAS of Ohio: A bill (H. R. 24116) restoring to the pension rolls the name of Robert J. Scott—to the Committee on Invalid Pensions.

By Mr. WEISSE: A bill (H. R. 24117) granting an increase of pension to Charles Ward—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24118) granting an increase of pension to Byron T. Gibson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24119) granting an increase of pension to J. H. Heather—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24120) granting an increase of pension to John Neugebauer—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24121) granting an increase of pension to Peter McHugh—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24122) granting a pension to Margaret Williamson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24123) granting an increase of pension to William Anglum—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24124) granting an increase of pension to George T. Kelly—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24125) granting an increase of pension to August Grupe—to the Committee on Invalid Pensions.

By Mr. WILLIAMS: A bill (H. R. 24126) for the relief of the estate of Ann M. Meehan, deceased—to the Committee on War Claims.

By Mr. WILSON of Illinois: A bill (H. R. 24127) granting an increase of pension to Thomas Jaworski—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24128) granting an increase of pension to John F. Barrow—to the Committee on Invalid Pensions.

By Mr. WOOD: A bill (H. R. 24129) granting a pension to Ellen Johnston—to the Committee on Invalid Pensions.

By Mr. BARCHFELD: A bill (H. R. 24130) authorizing the Secretary of War to adjust the claim of the Merritt & Chapman Wrecking Company—to the Committee on Claims.

Also, a bill (H. R. 24131) authorizing the Secretary of War to adjust the claim of the Merritt & Chapman Derrick and Wrecking Company—to the Committee on Claims.

Also, a bill (H. R. 24132) for the relief of John D. Toppin, passed assistant engineer, United States Navy, retired—to the Committee on Naval Affairs.

By Mr. SHACKLEFORD: A bill (H. R. 24133) granting an increase of pension to Eleanor A. McCardell—to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALEXANDER of Missouri: Paper to accompany bill for relief of Edward B. Ward—to the Committee on Invalid Pensions.

By Mr. ALLEN: Petition of Walter H. Libby and 21 other citizens of Portland, Me., against Senate bill 3940 (religious observance in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. ANTHONY: Petitions of citizens of Atchison and citizens of Willard, against the passage of S. 3940 (proper ob-

servance of Sunday as a day of rest in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. ASHBROOK: Petition of Association of American Agricultural Colleges and Experiment Stations, for removal of duty on basic slag—to the Committee on Ways and Means.

Also, paper to accompany bill for relief of W. E. Tyler—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Annie Irvine (previously referred to the Committee on Pensions)—to the Committee on Invalid Pensions.

By Mr. BINGHAM: Petition of Board of Trade of Philadelphia, favoring Senate joint resolution No. 40, relative to transportation of material for the Panama Canal—to the Committee on Interstate and Foreign Commerce.

By Mr. BRADLEY: Petition of J. W. Matthews & Co., of Newburgh, N. Y., for removal of duty on raw and refined sugars—to the Committee on Ways and Means.

By Mr. CHANEY: Paper to accompany bill for relief of Louis R. Edmunds—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Silas R. Houston—to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri: Petition of sundry citizens of Hermann, Mo., asking for improvement of certain portions of Missouri and Gasconade rivers—to the Committee on Rivers and Harbors.

By Mr. DAWSON: Petition of 48 citizens of Davenport, Iowa, for legislation to pension members of the Telegraph Corps of the civil war—to the Committee on Invalid Pensions.

By Mr. DRAPER: Petition of A. E. Yoell, for Asiatic exclusion legislation—to the Committee on Immigration and Naturalization.

By Mr. DWIGHT: Petition of Theodore C. Thorpe, favoring removal of duty from raw and refined sugars—to the Committee on Ways and Means.

By Mr. ESCH: Petition of H. C. Weidenbacher, of Eau Claire, Wis., for repeal of duty on sugar—to the Committee on Ways and Means.

Also, petition of Philadelphia Board of Trade, favoring Senate joint resolution No. 40, relative to transportation of material for the Panama Canal—to the Committee on Interstate and Foreign Commerce.

By Mr. FITZGERALD: Petition of River Improvement and Drainage Association, for the improvement of Sacramento River, California—to the Committee on Rivers and Harbors.

Also, petition of Asiatic Exclusion League, for the exclusion of Asiatics other than certain special classes—to the Committee on Immigration and Naturalization.

Also, petition of Jennie Alsberg and 71 others, citizens of Brooklyn, against S. 3940 (religious legislation in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. FLOYD: Paper to accompany bill for relief of John H. Gray (previously referred to the Committee on Invalid Pensions)—to the Committee on Pensions.

By Mr. FOSS: Petition of citizens of Chicago, Ill., against Senate bill 3940, entitled "An act for proper observance of Sunday as a day of rest in the District of Columbia"—to the Committee on the District of Columbia.

By Mr. FULLER: Paper to accompany bill for relief of William H. Young—to the Committee on Invalid Pensions.

Also, petition of J. J. Winter, of Garfield, Ill., against a parcels-post act—to the Committee on the Post-Office and Post-Roads.

Also, petition of Illinois Retail Jewelers' Association, of Chicago, favoring enactment of federal advertising law against fraudulent advertising—to the Committee on Interstate and Foreign Commerce.

Also, petition of Al F. Schoch, of National City Bank, of Ottawa, Ill., favoring tariff on zinc ore—to the Committee on Ways and Means.

By Mr. GRAHAM: Paper to accompany bill for relief of Albert E. Beatty (previously referred to the Committee on Invalid Pensions)—to the Committee on Pensions.

By Mr. HAYES: Petition of R. W. Fuller and 47 other citizens of Stockton, Cal., favoring an effective Asiatic exclusion law against all Asiatics save merchants, students, and travelers—to the Committee on Foreign Affairs.

Also, petition of River Improvement and Drainage Association, of San Francisco, for appropriation to improve Sacramento and San Joaquin rivers—to the Committee on Rivers and Harbors.

By Mr. HIGGINS: Petition of J. B. Holl, of Willimantic, Conn., and Ernest C. Laboll, of Groton, Conn., against the passage of S. 3940 (proper observance of Sunday as a day of rest in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. HOUSTON: Paper to accompany bill for relief of Samuel S. George (H. R. 23590)—to the Committee on Invalid Pensions.

By Mr. HOWELL of Utah: Petition of William White, president, and E. G. Locke, secretary, of Bingham Union, No. 67, International Wood Workers, and Paul G. Smith and Al Hansen, of Bingham Local Union, No. 93, for investigation and regulation of the Treadwell Mining Company, of Douglas Island, Alaska—to the Committee on Mines and Mining.

Also, petition of Asiatic Exclusion League, for more stringent exclusion laws against Asiatics—to the Committee on Immigration and Naturalization.

By Mr. HUGHES of New Jersey: Petition of citizens of New Jersey, favoring the creation of a department of education—to the Committee on Education.

Also, petition of citizens of New Jersey, favoring legislation to provide pension for the United States Military Telegraph Corps of the United States Army during civil war—to the Committee on Invalid Pensions.

By Mr. HUGHES of West Virginia: Petitions of the Chamber of Commerce of Huntington, W. Va., and of the Board of Trade of Elkins, W. Va., praying for legislation providing for the establishment of the Appalachian-White Mountain National Forest—to the Committee on Agriculture.

Also, petition of the Veteran Army of the Philippines, praying for the enactment of legislation recognizing August 13 as a legal holiday—to the Committee on Military Affairs.

By Mr. KAHN: Petition of Frank Thole and 47 other residents of Richmond, Cal., in favor of an exclusion law prohibiting entrance of all Asiatics into the United States—to the Committee on Foreign Affairs.

By Mr. KNAPP: Paper to accompany bill for relief of John T. Mott—to the Committee on Claims.

By Mr. LAFEAN: Papers to accompany bills for relief of John Cline (H. R. 22666), Lewis I. Renaut (H. R. 22663), James Miller, William H. Zeigler (H. R. 22661), James A. Poleman (H. R. 22667), and James Speelman (H. R. 22664)—to the Committee on Invalid Pensions.

By Mr. LASSITER: Petition of Veteran Army of the Philippines, for legislation making August 13 a legal holiday, to be known as "Occupation Day"—to the Committee on the Judiciary.

Also, petition of Roper & Co., of Petersburg, Va., for the removal of duty on sugars—to the Committee on Ways and Means.

By Mr. LINDBERGH: Petition of citizens of Stevens County, against Senate bill 3940, entitled "An act for proper observance of Sunday as a day of rest in the District of Columbia"—to the Committee on the District of Columbia.

By Mr. LINDSAY: Petition of A. E. Yoell, for Asiatic exclusion law—to the Committee on Immigration and Naturalization.

Also, petition of citizens of New York, against enactment of the Johnston Sunday bill (S. 3940)—to the Committee on the District of Columbia.

Also, petition of River Improvement and Drainage Association, for improvement of Sacramento and San Joaquin rivers—to the Committee on Rivers and Harbors.

By Mr. LOUD: Petition of citizens of Cheboygan and Onaway, against S. 3940 (religious legislation in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. MAYNARD: Paper to accompany bill for relief of Martha L. De Ryder—to the Committee on Pensions.

By Mr. McCALL: Petition of ladies of Physiological Institute, of Boston, favoring legislation to suppress manufacture and sale of opium—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Reading, Mass., against Senate bill 3940, entitled "An act for proper observance of Sunday as day of rest in the District of Columbia"—to the Committee on the District of Columbia.

By Mr. McHENRY: Petition of the Hooven Mercantile Company, of Sunbury, Pa., for removal of duty on sugars—to the Committee on Ways and Means.

By Mr. McKINNEY: Petition of residents of Milan, Ill., for relief from overflow of waters of Mill Creek—to the Committee on Rivers and Harbors.

By Mr. MOON of Tennessee: Papers to accompany bills in re war claims of James B. Hoge; estate of William Roberts, deceased; of Abner Louder; estate of Aaron Murdock, deceased; of George W. Penny and others; and of Patrick H. Watkins, deceased—to the Committee on War Claims.

By Mr. OLCOTT: Paper to accompany bill for relief of Charlotte Velle—to the Committee on Invalid Pensions.

By Mr. OVERSTREET: Petition of A. E. Yoell, for more stringent Asiatic exclusion law—to the Committee on Immigration and Naturalization.

By Mr. PATTERSON: Paper to accompanying H. R. 23934, for the relief of Harmony Lodge, No. 17, Ancient Free Masons, of Barnwell, S. C.—to the Committee on War Claims.

By Mr. POLLARD: Petition of Omaha Bar Association, favoring increase of salaries of United States circuit judges—to the Committee on the Judiciary.

Also, petition of residents of Auburn, Nebr., favoring the pensioning of members of the Military Telegraphers' Corps in civil war—to the Committee on Invalid Pensions.

By Mr. PRAY: Petition of citizens of Bozeman, against Senate bill 3940, entitled "An act for proper observance of Sunday as day of rest in the District of Columbia"—to the Committee on the District of Columbia.

By Mr. RYAN: Petition of Chamber of Commerce of Buffalo, favoring removal of duty on barley—to the Committee on Ways and Means.

Also, petition of Chamber of Commerce of Buffalo, N. Y., favoring creation of a nonpartisan tariff commission—to the Committee on Ways and Means.

Also, petition of Chamber of Commerce, Buffalo, N. Y., for increase of salaries of United States district court judges—to the Committee on the Judiciary.

Also, petition of bar association of Erie County, N. Y., for legislation increasing salaries of district court judges—to the Committee on the Judiciary.

By Mr. SHERMAN: Papers to accompany bill granting a pension to Ann Hickox—to the Committee on Invalid Pensions.

Also, petition of citizens of Utica, N. Y., for the removal of duty on raw and refined sugars—to the Committee on Ways and Means.

By Mr. SLAYDEN: Petition of citizens of San Antonio, Tex., against the Johnston bill (S. 3940), providing for religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, paper to accompany bill for relief of David W. Hatch—to the Committee on War Claims.

By Mr. SMITH of Texas: Petition of citizens of Texas, against Senate bill 3940, entitled "An act for proper observance of Sunday as a day of rest in the District of Columbia"—to the Committee on the District of Columbia.

By Mr. SPARKMAN: Petitions of citizens of Plant City, citizens of Bartow, and citizens of Manatee County, all in the State of Florida, against Senate bill 3940, entitled "An act for proper observance of Sunday as a day of rest in the District of Columbia"—to the Committee on the District of Columbia.

By Mr. UNDERWOOD: Petition of citizens of Alabama, against S. 3940 (religious observance in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. VREELAND: Petition against S. 3940 (Sunday observance in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. WANGER: Petition of Philadelphia Board of Trade, for S. 40, providing for transportation by sea of material and equipment for use in construction of the Panama Canal—to the Committee on Interstate and Foreign Commerce.

By Mr. WHEELER: Petition of Smith, Horton & Co., favoring removal of duty on raw and refined sugars—to the Committee on Ways and Means.

By Mr. WILLIAMS: Paper to accompany bill for relief of estate of Ann M. Meehan—to the Committee on War Claims.

By Mr. WOOD: Paper to accompany bill for relief of Ellen Johnson—to the Committee on Invalid Pensions.

By Mr. WOODYARD: Petition of J. S. Moore and Shattuck & Jackson Company, wholesale grocers of Parkersburg, W. Va., for removal of duty on sugar—to the Committee on Ways and Means.

SENATE.

TUESDAY, December 15, 1908.

The Senate met at 12 o'clock m.

Prayer by the Chaplain, Rev. Edward Everett Hale.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. Burrows, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

ELECTORAL VOTE OF MONTANA.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice-President appointed in the State of Montana, which, with the accompanying paper, was ordered to be filed.